

**SIXTY-NINTH DAY**  
(Continued)  
(Sunday, May 31, 1987)

**AFTER RECESS**

The Senate met at 1:30 p.m. and was called to order by the President.

**SENATOR ANNOUNCED PRESENT**

Senator Tejeda who had previously been recorded as "Absent-excused" was announced "Present".

**LEAVE OF ABSENCE**

Senator Whitmire was granted leave of absence for today on account of important business on motion of Senator Brooks.

**CONFERENCE COMMITTEES GRANTED  
PERMISSION TO MEET**

On motion of Senator Brooks and by unanimous consent, Senate Conference Committees were granted permission to meet while the Senate was in session today.

**GUEST PRESENTED**

Senator Armbrister was recognized and introduced the Capitol Physician for the Day, Dr. Roy Pendergraft of Sugar Land.

Dr. Pendergraft was welcomed and received an expression of appreciation for again serving as the Capitol Physician.

**CO-SPONSOR OF COMMITTEE SUBSTITUTE  
HOUSE BILL 173**

On motion of Senator Zaffirini and by unanimous consent, Senator Krier will be shown as Co-sponsor of C.S.H.B. 173.

**CO-SPONSOR OF HOUSE BILL 2560**

On motion of Senator Brooks and by unanimous consent, Senator Edwards will be shown as Co-sponsor of H.B. 2560.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 31, 1987

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**H.B. 1120**, Relating to the disposition of certain property and proceeds of property forfeited under the Texas Controlled Substances Act to assist certain prevention and treatment programs.

**H.B. 2630**, Relating to liability limits for a health care liability claim.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT  
HOUSE BILL 1285**

Senator Sims submitted the following Conference Committee Report:

Austin, Texas  
May 30, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1285** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

SIMS  
LEEDOM  
EDWARDS  
GLASGOW

On the part of the Senate

HALEY  
AIKIN  
GLOSSBRENNER  
GRUSENDORF  
HURY

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.B. 49	H.B. 1855	H.C.R. 148	S.B. 841
H.B. 56	H.B. 1948	H.C.R. 168	S.B. 954
H.B. 113	H.B. 1950	H.C.R. 172	S.B. 989
H.B. 258	H.B. 1956	H.C.R. 208	S.B. 994
H.B. 272	H.B. 1957	H.C.R. 217	S.B. 1036
H.B. 323	H.B. 1978	H.C.R. 222	S.B. 1049
H.B. 524	H.B. 1987	H.C.R. 227	S.B. 1054
H.B. 543	H.B. 1989	H.C.R. 228	S.B. 1058
H.B. 579	H.B. 1994	S.B. 1	S.B. 1068
H.B. 629	H.B. 2171	S.B. 120	S.B. 1069
H.B. 647	H.B. 2197	S.B. 152	S.B. 1108
H.B. 662	H.B. 2216	S.B. 233	S.B. 1132
H.B. 750	H.B. 2274	S.B. 262	S.B. 1154
H.B. 826	H.B. 2276	S.B. 269	S.B. 1239
H.B. 982	H.B. 2316	S.B. 403	S.C.R. 146
H.B. 1007	H.B. 2364	S.B. 437	S.B. 1265
H.B. 1123	H.B. 2370	S.B. 481	S.B. 1273
H.B. 1150	H.B. 2371	S.B. 497	S.B. 1309

H.B. 1217	H.B. 2408	S.B. 512	S.B. 1331
H.B. 1353	H.B. 2481	S.B. 543	S.B. 1332
H.B. 1370	H.B. 2486	S.B. 545	S.B. 1409
H.B. 1469	H.B. 2567	S.B. 551	S.B. 1420
H.B. 1483	H.B. 2575	S.B. 552	S.B. 1425
H.B. 1582	H.B. 2576	S.B. 581	S.B. 1426
H.B. 1596	H.B. 2584	S.B. 601	S.B. 1435
H.B. 1608	H.B. 2585	S.B. 610	S.B. 1444
H.B. 1619	H.B. 2586	S.B. 632	S.B. 1453
H.B. 1646	H.B. 2587	S.B. 646	S.B. 1478
H.B. 1650	H.B. 2591	S.C.R. 137	S.B. 1479
H.B. 1742	H.B. 2598	S.B. 691	S.B. 1486
H.B. 1805	H.B. 2602	S.B. 762	S.B. 1487
H.B. 1839	H.B. 2604	S.B. 784	S.B. 1521
H.B. 1853	H.B. 2608	S.B. 785	S.B. 1525
H.B. 1854	H.C.R. 93	S.B. 792	S.B. 1532
H.B. 1271			

#### SENATE BILL 1371 WITH HOUSE AMENDMENTS

By unanimous consent, Senator Brooks called **S.B. 1371** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Floor Amendment No. 1 - Stiles

Amend **S.B. 1371** on second reading by adding appropriately numbered sections as follows and renumbering the remaining sections accordingly:

SECTION \_\_\_\_ Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), is amended by adding Subchapter (H) to read as follows:

(H) In this section, "low-dose mammography" means the X-ray examination of the breast using equipment dedicated specifically for mammography, including the X-ray tube, filter, compression device, screens, films, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with two views for each breast. Each individual policy or group policy of accident and sickness insurance, including policies issued by companies subject to Chapter 20, Insurance Code, that covers a female 35 years old or older and that is delivered, issued for delivery, or renewed in this state must include coverage in an amount of not less than \$100 for an annual screening by low-dose mammography for the presence of occult breast cancer.

SECTION \_\_\_\_ Article 3.74, Insurance Code, is amended by adding Section 3A to read as follows:

Sec. 3A. COVERAGE FOR MAMMOGRAPHY. (a) In this section, "low-dose mammography" means the X-ray examination of the breast using equipment dedicated specifically for mammography, including the X-ray tube, filter, compression device, screens, films, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with two views for each breast.

(b) Each medicare supplement policy delivered, issued for delivery, or renewed in this state must include coverage in an amount of not less than \$100 for an annual screening by low-dose mammography for the presence of occult breast cancer.

**Floor Amendment No. 2 - Barton**

Amend S.B. 1371 by inserting the following sections between Sections 3 and 4 and by renumbering Sections 4 and 5 accordingly:

SECTION 4. Section 7, Chapter 642, Acts of the 66th Legislature, 1979, as amended (Article 4447u, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) Department rules must require, at a minimum, that before the department may approve an application for a license, other than a renewal or branch office license, the applicant must provide the following information to the department:

(1) documentation establishing that, at a minimum, the applicant has sufficient financial resources to provide the services required by this Act and by the department during the term of the license;

(2) a list of the management personnel for the proposed home health agency, a description of their qualifications, and a plan to provide continuing training and education for the personnel during the term of the license;

(3) documentation establishing that the applicant is capable of meeting the minimum standards relating to quality of care established by the department; and

(4) a plan that provides for the orderly transfer of care of the applicant's clients if the applicant is unable to maintain or deliver home health services under the license.

SECTION 5. Chapter 642, Acts of the 66th Legislature, 1979, as amended (Article 4447u, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

Sec. 7A. CORPORATE APPLICANTS. (a) If an applicant for a license, other than a renewal or branch office license, proposes to operate a home health agency through a partnership, corporation, or other business entity that includes members that are not individuals or through a corporation in which any of the stock is owned by another corporation, the applicant must:

(1) establish a corporation under Texas law if the applicant is not a Texas corporation;

(2) allow the department to review the competence and financial resources of any stockholder who holds at least 10 percent of the stock of the Texas corporation;

(3) allow the department to review the history and financial resources of each parent or health-related subsidiary of the Texas corporation;

(4) grant the Texas corporation full authority to operate the home health agency and any subsequent home health agencies for which the applicant may seek licensure under this Act;

(5) disclose to the department any information the department needs to conduct the reviews required by this subsection; and

(6) establish a registered agent as required by Article 2.09, Texas Business Corporation Act, to receive service of process in this state.

(b) The department may not approve the application unless the department is satisfied that approval is justified based on the competence, history, and financial resources of the Texas corporation, each parent or health-related subsidiary of the proposed Texas corporation, and the directors, officers, controlling persons, and principal stockholders of the Texas corporation and any parent or health-related subsidiary of the Texas corporation.

(c) The department may adopt rules implementing this section.

(d) Information received by the department that relates to the competence and financial resources of the applicant is confidential and may not be disclosed to the public.

SECTION 6. Section 8, Chapter 642, Acts of the 66th Legislature, 1979, as amended (Article 4447u, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. LICENSE FEES. (a) Within the limits prescribed by Subsections (b) and (c) of this section, the [The] board shall set the home health service license fee in an amount that is reasonable to meet the costs of administering this Act.

(b) The board shall set the fee for an initial Class A or Class B license at not less than \$600 nor more than \$1,200.

(c) The board shall set the fee for renewal of a branch office license at not less than \$200 nor more than \$300.

(d) [~~but the fee may not be less than \$300 nor more than \$750 for a Class A or Class B license, nor less than \$100 nor more than \$300 for a branch office license.~~] A fee charged under this section is nonrefundable [~~except as provided by Subsection (b) of this section.~~].

**Floor Amendment No. 1 on Third Reading - S. Thompson**

Amend Floor Amendment No. 1 to S.B. 1371 by inserting after the comma and before the word "including" in Subsection H the following:

"except for policies which only provide coverage for specified disease or other limited benefit coverage."

The amendments were read.

Senator Brooks moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 1371 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Chairman; Glasgow, Armbrister, Anderson and Johnson.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 31, 1987

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 882, Failed passage on second reading by a non-record vote.

S.B. 967, Failed passage on second reading by a record vote of 57 ayes, 81 noes, 1 present-not voting.

S.J.R. 21, Failed adoption by record vote of 49 ayes, 93 noes, 2 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1424 ADOPTED**

Senator Johnson called from the President's table the Conference Committee Report on **S.B. 1424**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 29, 1987.)

On motion of Senator Johnson, the Conference Committee Report was adopted by the following vote: Yeas 27, Nays 0.

Absent: Barrientos, Brown, Sarpalius.

Absent-excused: Whitmire.

**CONFERENCE COMMITTEE REPORT ON  
SENATE JOINT RESOLUTION 17 ADOPTED**

Senator Farabee called from the President's table the Conference Committee Report on **S.J.R. 17**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Farabee, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 0.

Absent: Brown.

Absent-excused: Whitmire.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 651 ADOPTED**

Senator Parker called from the President's table the Conference Committee Report on **S.B. 651**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 28, 1987.)

On motion of Senator Parker, the Conference Committee Report was adopted viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 150 ADOPTED**

Senator Montford called from the President's table the Conference Committee Report on **H.B. 150**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 28, 1987.)

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 0.

Absent: Brown.

Absent-excused: Whitmire.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1785 ADOPTED**

Senator Jones called from the President's table the Conference Committee Report on **H.B. 1785**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 29, 1987.)

On motion of Senator Jones, the Conference Committee Report was adopted viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1866 ADOPTED**

Senator Jones called from the President's table the Conference Committee Report on **H.B. 1866**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 29, 1987.)

On motion of Senator Jones, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 0, Present-not voting, 1.

Present-not voting: Washington.

Absent: Brown.

Absent-excused: Whitmire.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 202 ADOPTED**

Senator Farabee called from the President's table the Conference Committee Report on **S.B. 202**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 29, 1987.)

On motion of Senator Farabee, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent: Brown.

Absent-excused: Whitmire.

**CONFERENCE COMMITTEE REPORT ON  
SENATE CONCURRENT RESOLUTION 68 ADOPTED**

Senator Farabee called from the President's table the Conference Committee Report on **S.C.R. 68**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Farabee, the Conference Committee Report was adopted viva voce vote.

**SENATE RULE 96(h) SUSPENDED**

On motion of Senator Farabee and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 257**.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 530 ADOPTED**

Senator Glasgow called from the President's table the Conference Committee Report on **S.B. 530**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 29, 1987.)

On motion of Senator Glasgow, the Conference Committee Report was adopted viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 367 ADOPTED**

Senator Green called from the President's table the Conference Committee Report on **H.B. 367**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Green, the Conference Committee Report was adopted viva voce vote.

**MOTION TO ADOPT CONFERENCE COMMITTEE  
REPORT ON HOUSE BILL 791**

Senator Green called from the President's table the Conference Committee Report on H.B. 791. (The Conference Committee Report having been filed with the Senate and read on Friday, May 29, 1987.)

Senator Green moved to adopt the Conference Committee Report.

On motion of Senator Green and by unanimous consent, the motion to adopt the Conference Committee Report was withdrawn.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 994 ADOPTED**

Senator Green called from the President's table the Conference Committee Report on H.B. 994. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Green, the Conference Committee Report was adopted by the following vote: Yeas 27, Nays 0.

Absent: Brown, Krier, Santiesteban.

Absent-excused: Whitmire.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 31, 1987

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 236, Congratulating Faith Watson Crawford.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**MOTION TO ADOPT CONFERENCE COMMITTEE  
REPORT ON HOUSE BILL 1169**

Senator Jones called from the President's table the Conference Committee Report on H.B. 1169. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

Senator Jones moved to adopt the Conference Committee Report.

On motion of Senator Jones and by unanimous consent, the motion to adopt the Conference Committee Report was withdrawn.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1230 ADOPTED**

Senator Anderson called from the President's table the Conference Committee Report on H.B. 1230. (The Conference Committee Report having been filed with the Senate and read on Friday, May 29, 1987.)

On motion of Senator Anderson, the Conference Committee Report was adopted by the following vote: Yeas 27, Nays 0.



Absent: Brown, Krier, Santiesteban.

Absent-excused: Whitmire.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1387 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **H.B. 1387**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 27, Nays 0.

Absent: Brown, Krier, Santiesteban.

Absent-excused: Whitmire.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1718 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **H.B. 1718**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Harris, the Conference Committee Report was adopted viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2194 ADOPTED**

Senator Sims called from the President's table the Conference Committee Report on **H.B. 2194**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 29, 1987.)

On motion of Senator Sims, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 0.

Absent: Brown, Santiesteban.

Absent-excused: Whitmire.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2445 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **H.B. 2445**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 29, 1987.)

On motion of Senator Harris, the Conference Committee Report was adopted viva voce vote.

**RECORD OF VOTE**

Senator Washington asked to be recorded as voting "Present-not voting" on the adoption of the Conference Committee Report.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1169 ADOPTED**

Senator Jones called from the President's table the Conference Committee Report on **H.B. 1169**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Jones, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 0.

Absent: Brown.

Absent-excused: Whitmire.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 522 ADOPTED**

Senator Sarpalius called from the President's table the Conference Committee Report on S.B. 522. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Sarpalius, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 0.

Absent: Brown.

Absent-excused: Whitmire.

**SENATE BILL 1429 WITH HOUSE AMENDMENTS**

By unanimous consent, Senator Lyon called S.B. 1429 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Committee Amendment - Yost**

Amend S.B. 1429 as follows:

(1) On page 24, strike line 9 and substitute "provided by Subchapter F, Chapter 54,".

(2) On page 24, line 10, strike "54.521,".

**Floor Amendment - Hammond**

Amend S.B. 1429 on page 28, between lines 16 and 17, by inserting the following and renumbering subsequent sections appropriately:

SECTION 25. Sections 1, 2, 3, 4, 6, 7, and 8, Chapter 1081, Acts of the 68th Legislature, Regular Session, 1983, are amended to read as follows:

Sec. 1. GENERAL PROVISIONS. (a) Pursuant to Article XVI, Section 59, of the Texas Constitution, a conservation and reclamation district designated as Dallas County Levee Improvement District No. 17 was established by the Commissioners Court of Dallas County and was converted to Dallas County Municipal Utility District No. 2 by order of the Texas Water Commission.

(b) The Dallas County Municipal Utility District No. 2 is renamed "Dallas County Flood Control District No. 1" and is declared to be a validly existing conservation and reclamation district.

(c) In this Act, "district" means the Dallas County Flood Control District No. 1.

(d) The district is declared to be a governmental agency and body politic and corporate and may exercise the powers, rights, privileges, and functions as provided by Article XVI, Section 59, of the Texas Constitution, Chapter 57, Water Code, and this Act. If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails.

(e) The district may construct and maintain levees and other improvements on, along, and contiguous to rivers, creeks, streams, and drainage courses for the purposes of:

(1) reclaiming land from overflow from that water;

(2) controlling and distributing the water of rivers and streams by straightening and improving the rivers and streams;

(3) draining and improving the land; and

(4) preventing pollution of the water.

(f) The district may build, construct, complete, carry out, maintain, protect, and, in case of necessity, add to and rebuild all works and improvements within its boundaries to accomplish any plan of reclamation adopted for or on behalf of the district. The district may enter into necessary contracts, employ necessary persons, and take any actions necessary to carry out this subsection.

(g) In addition to any other requirements, an amendment to the district's plan of reclamation must be approved by the city of Grand Prairie and the city of Irving before the plan of reclamation takes effect.

[(b) The district may exercise the rights, powers, purposes, authority, and functions provided by Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8280-477, Vernon's Texas Civil Statutes), but if any provision of that Act is in conflict or inconsistent with this Act, this Act prevails. The provisions of Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8280-477, Vernon's Texas Civil Statutes), that are not in conflict or inconsistent with this Act continue in effect.]

Sec. 2. BOUNDARIES. (a) On and after the effective date of this Act the district shall be designated as the Dallas County Flood Control District No. 1 of Dallas County, Texas. The district includes all property located within the redefined boundaries of the district as filed in the deed records of Dallas County, Texas, on the effective date of this Act. Those boundaries are validated.

(b) The following real property is excluded from the district: Towne Lake Phase II Addition to the City of Irving Block 1, Lots 1 through 19; Block 2, Lots 1 through 6 and 9 through 69; Block 3, Lots 1 through 28; Towne Lake Phase III Addition to the City of Irving Block 1, Lots 1 through 8; Block 2, Lots 1 through 68; Block 3, Lots 1 through 38; Block 4, Lots 1 through 17; and Towne Lake Place Addition to the City of Irving, Block A, Lots 1 and 2. Effective July 1, 1987, the excluded property may not be subject to the levy of ad valorem taxes by the district and it shall be removed from the tax rolls of the district at that time.

(c) The legislature finds that the boundaries and field notes of the district form a closure. If any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it in no way affects the organization, existence, and validity of the district; the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal of and interest on the bonds; the right of the district to assess, levy, and collect taxes; or the legal operation of the district or its governing body.

Sec. 3. BOARD OF DIRECTORS; DISTRICT ADMINISTRATION. (a) The powers of the district are exercised by a board of five directors. Each director serves for a term of two years, and until a successor is appointed and qualified. The city of Irving shall appoint three directors and the city of Grand Prairie shall appoint two directors.

(b) If a director dies, resigns, or ceases to possess the qualifications required for office, the board of directors shall declare the office vacant and the city that appointed the director whose position became vacant shall appoint a successor to fill the unexpired term.

(c) A director must own land within the district subject to taxation at the time of his qualification as a director, must take the constitutional oath of office, and shall execute a bond in the amount of \$5,000 for the faithful performance of his duties. The cost of the bond shall be paid by the district. The bond shall be approved by the board of directors and filed in the office of the county clerk of Dallas County.

(d) A majority of the members of the board of directors constitute a quorum for the transaction of business of the district, but no official action of the board is valid without the affirmative vote of a majority of the members of the board.

(e) The board of directors may designate one or more directors to execute on behalf of the district all contracts, construction or otherwise, sign checks, or handle any other matter entered into by the board as shown in the official minutes of the district.

(f) The board of directors shall organize and elect a president, vice-president, and secretary. The board may authorize the president to sign all orders or take other action.

(g) An order adopted or action taken at a meeting of the board of directors at which the president is absent may be signed by the vice-president, or the board may authorize the president to sign the order or action at a later time.

(h) The secretary of the board of directors is responsible for keeping accurate minutes and certifying any action taken by the board.

(i) Each member of the board of directors is entitled to receive \$25 for each day he spends on district work but may not receive an amount that exceeds \$200 in any calendar month. A director shall be reimbursed for actual expenses approved by the board.

(j) The board of directors shall hold regular and special meetings at the times and on the dates the board determines.

(k) The board of directors shall keep and maintain complete and accurate accounts and records. The board shall keep the records at the district's principal office and the records shall be open to public inspection at reasonable times [Each director serving at the time of the passage of this Act shall continue to serve for his elected term. The district's directors shall subsequently be elected, or appointed to fill an unexpired term, as the case may be, for the term of office, in the manner, and with the qualifications and official bond required by Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8280-477, Vernon's Texas Civil Statutes), except there shall be only five directors].

Sec. 4. BONDS AND TAXES. (a) The district may issue and sell all unissued bonds and may levy and collect an ad valorem tax on all taxable property in the district to pay the principal of and interest on the bonds, as authorized at an election held in the district on June 12, 1982.

(b) The district shall assume and be responsible for all outstanding indebtedness and existing contracts of its predecessor districts and may continue to levy and collect maintenance taxes previously authorized at an election held in the district.

(c) The district may issue bonds and incur other indebtedness in the manner provided by Section 10, Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971.

(d) The district shall file with the city of Grand Prairie and the city of Irving notice of intent to issue bonds or other indebtedness not later than the 20th day before the date of issuance. The notice must state the purpose for which the bonds or other indebtedness are issued and the approximate principal amount of the bonds or indebtedness.

(e) Bonds or other indebtedness may not be sold at discount from the principal amount without the prior approval of the city of Grand Prairie and the city of Irving.

Sec. 6. BOND ANTICIPATION NOTES. (a) In addition to all other methods of acquiring funds for district purposes, the district may issue bond anticipation notes for any purpose for which bonds have been voted or may be issued to refund outstanding bond anticipation notes and the interest on the notes being refunded.

(b) Notes issued under this section may bear interest at any rate not to exceed the maximum interest rate applicable to the district's authorized bonds, and shall mature within one year of the date they are issued.

(c) The maximum amount of notes issued under this section outstanding at any one time may not exceed \$500,000 unless the district obtains the prior consent of the cities [city] of Grand Prairie and Irving[, Texas].

(d) Notes issued under this section shall be paid only from the proceeds of the sale of bonds by the district.

Sec. 7. PROHIBITED FUNCTIONS. The district is expressly prohibited from engaging in any park, water service, wastewater service, police, or fire-fighting functions or spending any district funds or issuing bonds for those purposes.

Sec. 8. PUBLIC BENEFIT. The legislature finds that the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district and by the powers granted pursuant to Article XVI, Section 59, of the Texas Constitution, and that the district was created to serve a public use and benefit [EMERGENCY: The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted].

SECTION 26. Chapter 1081, Acts of the 68th Legislature, Regular Session, 1983, is amended by adding Sections 9, 10, 11, 12, 13, and 14 to read as follows:

Sec. 9. EMINENT DOMAIN. (a) The district may exercise the power of eminent domain within Dallas County, Texas, to enable it to acquire the fee simple title, easement, or right-of-way to, over, and through any and all land, water, or land under water, except land and property used for cemetery purposes, inside, bordering on, adjacent or opposite to, or outside the district that has a direct effect on the accomplishment of the purposes for which the district is created and that is necessary for making, constructing, and maintaining all levees and other improvements for the improvement of rivers, creeks, streams, or drainage courses inside or bordering on the district and to prevent overflows.

(b) The power of eminent domain must be exercised by the district in the manner provided by Chapter 21, Property Code, except that the district is not required to give bond for appeal or bond for costs in a condemnation suit to which it is a party and is not required to deposit double the amount of any award in any suit.

(c) If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, change in grade, or alteration of the construction of any highway, railroad, electric transmission or distribution line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, change in grade, or alteration of construction shall be accomplished at the sole expense of the district, unless the owner of the facility relocated or altered has an existing legal obligation to pay the expenses. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, change in grade, or alteration of construction, to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

(d) In addition to any other requirements, the district may not exercise the power of eminent domain without the prior approval of the city of Grand Prairie if the property to be condemned is within the city limits of Grand Prairie or the city of Irving if the property to be condemned is within the city limits of Irving.

Sec. 10. CONTRACTS. The district may enter into contracts with the United States or any of its agencies, with the city of Grand Prairie, with the city of Irving, or with individuals, corporations, public bodies, or any other entity for the maintenance of or construction of any facility or improvement authorized by this Act without the necessity of bonds being voted, and an election is not required of the district to approve the contracts.

Sec. 11. DEPOSITORY. (a) The board of directors shall designate one or more banks to serve as depository for district funds.

(b) District funds, other than those transmitted to a bank of payment for bonds issued by the district, shall be deposited as received in the depository.

(c) If district funds are deposited in a depository not insured by the Federal Deposit Insurance Corporation, the funds must be secured in the manner provided by law for the security of county funds.

(d) The board of directors may appoint a district treasurer. The person appointed as treasurer shall execute a bond in an amount determined by the board, payable to the district conditioned on the faithful performance of the treasurer's duties.

Sec. 12. DISTRICT OFFICE. The board of directors shall establish and maintain a district office in the district. The district may establish a second district office outside the district. Either or both district offices may be a private residence, office, or dwelling, and the private residence, office, or dwelling is declared a public place for matters pertaining to the district's business.

Sec. 13. ANNEXATION. The district may annex property to the district in the manner provided by Sections 54.711 through 54.727, Water Code. Before the annexation of land to the district, the district must obtain the approval of the city of Grand Prairie if the land to be annexed is within the city limits of Grand Prairie, or the city of Irving if the land to be annexed is within the city limits of Irving.

Sec. 14. LEGISLATIVE DECLARATION. The legislature declares the creation and operation of the district to be essential to accomplish the purpose of Article XVI, Section 59(d), of the Texas Constitution.

SECTION 27. (a) The two directors of the Dallas County Flood Control District No. 1 elected on April 4, 1987, serve until two directors are appointed to and have qualified for those positions. One director shall be appointed by the city of Grand Prairie and one director shall be appointed by the city of Irving. The appointments may not be made before the date the United States Department of Justice indicates that no objections will be interposed under the federal Voting Rights Act (42 U.S.C. Sections 1971, 1973 et seq.), but must be made within 15 days after that date.

(b) The three directors serving on the effective date of this Act who have terms of office that expire in April 1988 shall continue in office and serve for the terms for which they were elected and until their successors are appointed and have qualified for office. The successors to those directors shall be appointed to take office on April 3, 1988, with one director being appointed by the city of Grand Prairie and two directors being appointed by the city of Irving.

SECTION 28. (a) All resolutions, orders, and other acts or attempted acts of the board of directors of the Dallas County Flood Control District No. 1, together with all annexations by the district and annexation elections, and all proceedings of the district, authorizing the issuance of bonds of the district, including voted but unissued bonds of the district, bond elections, and the bond taxes voted for those bonds, and all contracts, including contracts entered into by the district, passed or made before the effective date of this Act are validated in all respects. All the resolutions, orders, and other acts or attempted acts of the board of directors of the district, annexations, all proceedings of the district, the district's bonds, bond elections, bond taxes, pledged revenues, and contracts shall be valid as though they had originally been duly and legally authorized or accomplished.

(b) This section does not apply to the acts or attempted acts of the board of directors that are the subject of litigation or affect litigation now pending in any court of competent jurisdiction in this state to which the district is a party.

SECTION 29. If the provisions of Sections 25 through 28 of this Act conflict with the provisions of any other Act of the 70th Legislature, Regular Session, 1987,

including H.B. No. 1278, the law adopted by Sections 25 through 28 of this Act prevails regardless of the relative order of passage by the legislature.

SECTION 30. (a) Unless expressly provided otherwise, if any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

(b) This section does not affect the power or duty of a court to ascertain and give effect to legislative intent concerning severability of this Act.

The amendments were read.

Senator Lyon moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 1429 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lyon, Chairman; Santiesteban, Sims, Brown and Sarpalius.

#### SENATE BILL 408 WITH HOUSE AMENDMENTS

By unanimous consent, Senator Uribe called S.B. 408 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Committee Amendment - Robnett

Amend S.B. 408 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), is amended by amending Sections 1, 1A, and 8 and by adding Sections 1B, 4A, and 9A to read as follows:

Sec. 1. Except as otherwise provided by Section 1A or under Section 1B of this Act, [Hereafter] every owner of any tract of land situated within the corporate limits, or within five miles of the corporate limits of any city in the State of Texas, who may hereafter divide the same in two or more parts by using a metes and bounds description in a deed conveyance, by using a metes and bounds description in a contract for a deed, or by another manner, for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall cause a plat to be made thereof which shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part, giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto; provided, however, that no plat of any subdivision of any tract of land or any addition to any town or city shall be recorded unless the same shall accurately describe all of said subdivision or

addition by metes and bounds and locate the same with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

Sec. 1A. The requirement of this Act that a plat be made and recorded does not apply to an owner of a tract of land:

(1) that is located entirely within an incorporated city or town having a population of 5,000 or fewer persons, according to the most recent federal census, that is divided into parts, all of which are larger than 2-1/2 acres, and that abuts or otherwise attaches to any part of an aircraft runway; or

(2) that is divided into parts, all of which are five acres or larger.

Sec. 1B. (a) To determine whether specific divisions of land are required to be planned, platted, or replatted, a city may define and classify the divisions. A city need not require planning, platting, or replatting for every division of land otherwise within the scope of this Act. A city may not require planning, platting, or replatting for a division of land outside the scope of this Act. Any ordinances, rules, and regulations that define or classify the divisions of land within the scope of this Act and that were adopted before September 1, 1987, are validated as of the dates they took effect.

(b) In lieu of a plan, plat, or replat contemplated by this Act, a city may require the filing of a development plat pursuant to Article 974a-3, Revised Statutes, if that article applies to the city.

(c) If a particular division of land within the jurisdiction of a city is not required to be planned, platted, or replatted under the city's ordinances, rules, and regulations adopted under this Act, that division of land is not required to be planned, platted, or replatted under Subchapter E, Chapter 2, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes), or any other statute, order, rule, or regulation relating to county approval of platting or divisions of land.

Sec. 4A. (a) For the purposes of this section, land is considered to be within the jurisdiction of a city if the land is located in the area to which Section 1 of this Act applies.

(b) On the approval of a plan, plat, or replat by the City Planning Commission or the governing body of the city, as the case may be, the commission or governing body shall issue to the person applying for the approval a certificate stating that the plan, plat, or replat has been reviewed and approved by the commission or governing body.

(c) On the written request of an owner of land, a public utility, or the governing body of the city, the City Planning Commission or the governing body of the city, whichever has authority to approve plans, plats, or replats, shall make the following determinations regarding the owner's land or the land in which the utility or governing body is interested that is located within the jurisdiction of the city:

(1) whether a plan, plat, or replat is required under Section 1 of this Act for the land; and

(2) if a plan, plat, or replat is required, whether it has been prepared and whether it has been reviewed and approved by the commission or governing body, as the case may be.

(d) The request made under Subsection (c) of this section must identify the land that is the subject of the request.

(e) If the commission or governing body determines that a plan, plat, or replat is not required, the commission or governing body shall issue to the requesting party a written certification of that determination. If the commission or governing body



determines that a plan, plat, or replat is required and that such a document has been prepared and has been reviewed and approved by the commission or governing body, the commission or governing body shall issue to the requesting party a written certification of that determination.

(f) The commission or governing body shall make its determination within 20 days after the date it receives the request under Subsection (c) of this section and shall issue the certificate, if appropriate, within 10 days after the date the determination is made.

(g) If both the City Planning Commission and the governing body have authority to approve plans, plats, or replats, only one of those entities need make the determinations and issue the certificates required by this section.

(h) The commission or governing body may adopt rules it considers necessary to administer its functions under this section.

Sec. 8. (a) An entity described by Subsection (b) of this section may not [unless and until any such plan, plat or replat shall have been first approved in the manner and by the authorities provided for in this Act, it shall be unlawful within the area covered by said plan, plat or replat for any city affected by this Act, or any officials of such city, to] serve or connect any [said] land[, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof,] with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land and issued under Section 4A of this Act [any public utilities such as water, sewers, light, gas, etc., which may be owned, controlled or distributed by such city].

(b) The prohibition established by Subsection (a) of this section applies only to:

(1) a city and officials of a city that provides water, sewer, electricity, gas, or other utility service;

(2) a city-owned or city-operated utility that provides any of those services; and

(3) a public utility that provides any of those services.

(c) This section does not apply to any area covered by a development plat duly approved pursuant to Article 974a-3, Revised Statutes, or pursuant to an ordinance, rule, or regulation relating to such a development plat.

(d) The prohibition established by Subsection (a) of this section applies only to land that an entity described by Subsection (b) of this section first serves or first connects with services on or after September 1, 1987. This section, as it existed before September 1, 1987, continues to apply to land that an entity first served or first connected with services before that date, and the former law is continued in effect for this purpose.

Sec. 9A. At the request of the governing body of the city, the city attorney or any other attorney representing the city may file an action in a court of competent jurisdiction to:

(1) enjoin the violation or threatened violation by the owner of a tract of land of a requirement regarding the tract and established by, or adopted by the governing body under, this Act; or

(2) recover damages from the owner of a tract of land in an amount adequate for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the tract and established by, or adopted by the governing body under, this Act.

SECTION 2. Section 58(a), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as provided by this section or Section 58A of this Act, the [The] holder of any certificate of public convenience and necessity shall serve every consumer within its certified area and shall render continuous and adequate service within the area or areas.

SECTION 3. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Section 58A to read as follows:

Sec. 58A. CONDITIONS REQUIRING REFUSAL OF SERVICE. The holder of a certificate of public convenience and necessity shall refuse to serve a customer within its certified area if the holder of the certificate is prohibited from providing the service under Section 8, Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes).

SECTION 4. Section 13.250(a), Water Code, is amended to read as follows:

(a) Except as provided by this section or Section 13.2501 of this code, the [The] holder of any certificate of public convenience and necessity shall serve every consumer within its certified area and shall render continuous and adequate service within the area or areas.

SECTION 5. Chapter 13, Water Code, is amended by adding Section 13.2501 to read as follows:

Sec. 13.2501. CONDITIONS REQUIRING REFUSAL OF SERVICE. The holder of a certificate of public convenience and necessity shall refuse to serve a customer within its certified area if the holder of the certificate is prohibited from providing the service under Section 8, Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes).

SECTION 6. The amendment by this Act of Sections 1 and 1A, and the addition by this Act of Sections 1B, 4A, and 9A, Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), apply only to a subdivision of land for which a plan, plat, or replat is first required to be filed on or after September 1, 1987, except for the validations made by Section 1B. A subdivision of land for which a plan, plat, or replat is first required to be filed before September 1, 1987, is governed by the law as it existed at the time the subdivision occurred, and the former law is continued in effect for this purpose.

SECTION 7. This Act takes effect September 1, 1987.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### **Floor Amendment No. 1 - Connelly**

Amend C.S.S.B. 408 as follows:

(1) On page 1, line 7, immediately following "1A," insert "3A,".

(2) On page 3, between lines 18 and 19, insert the following:

Sec. 3A. In a city that has a population of more than 1,500,000, according to the most recent federal census, and that has a city planning commission, 25 percent of the members of the commission must [may] be persons who reside within the area outside the city boundaries in which the city exercises authority to approve subdivision plats.

(3) Renumber Sections 7 and 8 of the bill as Sections 8 and 9 and insert a new Section 7 to read as follows:

SECTION 7. In a city having a city planning commission and covered by Section 3A, Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), the authority that appoints members to the commission shall make appointments, as commission members' terms expire or as membership positions are vacated, to achieve as soon as possible the membership scheme established by Section 3A, as amended by this Act.

#### **Floor Amendment No. 2 - R. Lewis**

Amend C.S.S.B. 408 by adding the following new SECTION 2 and renumbering existing SECTION 2 and subsequent sections accordingly:

SECTION 1. Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), is amended by adding Section 10 to read as follows:

Sec. 10. The governing body of any city may, pursuant to the provisions of this section and Section 4, Article 970a, Revised Statutes, extend by ordinance to all of the area under its extraterritorial jurisdiction the application of such city's ordinance establishing rules and regulations governing plats and the subdivision of land. Provided, however, a city may not impose zoning requirements, including land use regulations or density limitations in any area outside of its corporate limits.

**Floor Amendment No. 3 - A. Moreno**

Amend C.S.S.B. 408 as follows:

- (1) On page 6, line 12, immediately following "Sec. 9A.", insert "(a)".
- (2) On page 6, lines 16 and 19, immediately following "tract of land", insert "that has been subdivided".
- (3) On page 6, between lines 23 and 24, insert the following:
  - (b) A reference in this section to an "owner of a tract of land that has been subdivided" does not include the owner of an individual lot in a subdivided tract of land.

**Floor Amendment No. 4 - A. Moreno**

Amend C.S.S.B. 408 by adding a new section to be numbered appropriately and to read as follows:

SECTION \_\_\_\_\_. Title 28, Revised Statutes, is amended by adding Article 974a.1 to read as follows:

Art. 974a.1. SUBDIVISION REGULATION IN COUNTIES THAT BORDER THE RIO GRANDE RIVER.

Sec. 1. For a city that has a population of 5,000 or more, according to the most recent federal census, and that lies within a county that borders on the Rio Grande River, the provisions of Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), that relate to the area within five miles of the city do actually apply to that area within five miles of the city. This is the case regardless of the fact that those provisions, as they apply to other cities, are superseded by other law and are construed as applying to the extraterritorial jurisdiction of the city, as determined under the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), rather than to the area within five miles of the city.

Sec. 2. For the purposes of determining, under Article 6626aa, Revised Statutes, the relative authority of the city and the county to regulate subdivisions within that five-mile area, the area is treated as if it were the extraterritorial jurisdiction of the city.

**Floor Amendment No. 5 - Jones**

Amend C.S.S.B. 408 as follows:

Page 2 Line 22 strike five and insert 2-1/2.

**Floor Amendment No. 6 - Eckels**

Amend C.S.S.B. 408, on page 8, between lines 12 and 13, by inserting the following and renumbering subsequent sections accordingly:

SECTION 7. Article 974a-3, Revised Statutes, is repealed.

**Floor Amendment No. 7 - T. Smith**

Amend C.S.S.B. 408 by adding a new SECTION 7 on page 8 to read as follows, and renumber the subsequent SECTIONS accordingly:

SECTION 7. All restrictive covenants prescribed by the real property deeds recorded in Volume 3072, Page 605; Volume 3152, Page 1117; and Volume 3298, Page 1463, real property deed records of Travis County, Texas, are void. This section is enacted to void restrictions that serve no valid purpose and that are outdated, to allow the affected landowners to use their property in a manner consistent with community standards and with the actual development that has occurred in the affected area.

**Floor Amendment No. 8 - S. Johnson**

Amend C.S.S.B. 408, page 2 line 23, by adding the following: "and in county which borders on the Rio Grande River.

**Floor Amendment No. 9 - Shelley**

Amend C.S.S.B. 408 immediately before Section 6 of the bill by adding two appropriately numbered new sections to read as follows and by renumbering the subsequent sections appropriately:

SECTION \_\_\_\_ The Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes) is amended by adding Section 7c to read as follows:

Sec. 7c. CONSENT TO ANNEXATION OF CERTAIN SUBDIVISIONS.

(a) This section applies only to the annexation of a subdivision:

(1) in which more than 1,000 registered voters reside;

(2) that has been in existence for at least 10 years and for which a plat was prepared and filed as required by law at the time of the creation of the subdivision; and

(3) in which water service, wastewater service, electricity service, and solid waste collection service is available.

(b) A home-rule municipality with a population of more than 1.5 million, according to the most recent federal census, may not institute annexation proceedings regarding the annexation of all or part of the subdivision unless the city obtains from a majority of the registered voters of the subdivision written consent to the annexation. The consent must be obtained within the 60 days preceding the date the proceedings are instituted.

SECTION \_\_\_\_ Section 7c, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), as added by this Act, applies only to an annexation of all or part of a subdivision for which annexation proceedings are instituted on or after the effective date of this Act.

**Floor Amendment No. 10 - Carriker**

Amend C.S.S.B. 408 as follows:

Delete SECTION 1, Sec. 1B(c).

**Floor Amendment No. 1 on Third Reading - Eckels**

On page 3 House Committee Report C.S.S.B. 408 on line 1-3, delete the sentences beginning with A city.

**Floor Amendment No. 2 on Third Reading - A. Moreno**

Amend C.S.S.B. 408 as follows:

(1) On page 6, between lines 23 and 24, insert a new Section 2 to read as follows:

SECTION 2. Section 5, Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), is amended by amending Subsection (d) to read as follows:

(d) Notwithstanding any other provision of this section, the City Planning Commission or other appropriate governing body of a city is authorized to approve and issue an amending plat which is signed by the applicants only, and which is for one or more of the purposes set forth in this subsection ~~[the following Subdivisions (1) through (9), both inclusive]~~, and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:

(1) to correct an error in any course or distance shown on the prior plat;  
 (2) to add any course or distance that was omitted on the prior plat;  
 (3) to correct an error in the description of the real property shown on the prior plat;

(4) to indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;

(5) to show the proper location or character of any monument which has been changed in location or character or which originally was shown at the wrong location or incorrectly as to its character on the prior plat;

(6) to correct any other type of scrivener or clerical error or omission as previously approved by the City Planning Commission or governing body of such city; such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7) to correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;

(8) to relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; ~~[or]~~

(9) to relocate one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the plat amendment, provided that such amendment does not:

(A) attempt to remove recorded covenants or restrictions; or

(B) increase the number of lots; ~~or~~

~~(10) to make necessary changes to the prior plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the prior plat if:~~

~~(A) the changes do not affect applicable zoning and other regulations of the city;~~

~~(B) the changes do not attempt to amend or remove any covenants or restrictions; and~~

~~(C) the area covered by the changes is located in an area that the City Planning Commission or other appropriate governing body of the city has approved, after a public hearing, as a residential improvement area.~~

(2) Renumber the subsequent sections of the bill accordingly.

(3) Amend the caption to conform to the body of the bill.

#### Floor Amendment No. 3 on Third Reading - A. Moreno

Amend C.S.S.B. 408 by deleting 2nd reading amendment number 9 and on page 2 of the house committee report on lines 21 through 23 delete all new language as amended. (Section 1A(2))

**Floor Amendment No. 4 on Third Reading - Saunders**

Amend Amendment No. 2 adopted on second reading by striking the last sentence of the amendment and substituting the following: Provided, however, a city may not impose zoning requirements, including those which regulate the use of any building or property, in any area outside of its corporate limits.

The amendments were read.

Senator Uribe moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 408** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Uribe, Chairman; Whitmire, Parmer, Barrientos and Zaffirini.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1912 ADOPTED**

Senator Truan called from the President's table the Conference Committee Report on **H.B. 1912**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 29, 1987.)

On motion of Senator Truan, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 0.

Absent: Brown.

Absent-excused: Whitmire.

**CONFERENCE COMMITTEE ON HOUSE BILL 2085**

Senator Edwards called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2085** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2085** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Edwards, Chairman; Sarpalius, Caperton, Lyon and Glasgow.

**CONFERENCE COMMITTEE REPORT  
HOUSE BILL 1261**

Senator Anderson submitted the following Conference Committee Report:

Austin, Texas  
May 31, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 1261 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ANDERSON  
GREEN  
GLASGOW  
HARRIS  
PARKER

On the part of the Senate

CRISS  
UHER  
MELTON

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

(Senator Harris in Chair)

**MOTION TO ADOPT CONFERENCE COMMITTEE  
REPORT ON HOUSE BILL 2243**

Senator Edwards called from the President's table the Conference Committee Report on H.B. 2243. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 28, 1987.)

Senator Edwards moved to adopt the Conference Committee Report.

On motion of Senator Edwards and by unanimous consent, the motion to adopt the Conference Committee Report was withdrawn.

**SENATE BILL 1497 WITH HOUSE AMENDMENTS**

By unanimous consent, Senator Farabee called S.B. 1497 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Committee Amendment No. 1 - Harrison**

Amend S.B. 1497 in the following manner:

On page 19, line 19, delete Section 23 and renumber subsequent sections accordingly.

**Committee Amendment No. 2 - Stiles**

Amend S.B. 1497 as follows:

1. On page 24, line 6, add Sections 24 - 29 to read as follows and renumber the subsequent sections accordingly.

SECTION 24. Subdivision (30), Section 5, Texas Pharmacy Act, as amended (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(30) "Practitioner" means:

(A) a physician, dentist, podiatrist, veterinarian, or other person licensed or registered to prescribe, distribute, administer, or dispense a prescription drug or device in the course of professional practice in this state; [or]

(B) a person licensed by another state in a health field in which, under Texas law, licensees in this state may legally prescribe dangerous drugs or a person

practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, having a current Federal Drug Enforcement Administration registration number, and who may legally prescribe Schedule II, III, IV, or V controlled substances in such other state; or

(C) a person licensed in the Dominion of Canada or the United Mexican States in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs. "Practitioner" does not include a person licensed under this Act.

SECTION 25. Subsection (g), Section 40, Texas Pharmacy Act, as amended (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(g) No written prescription issued by a practitioner, as such term is defined in ~~[Paragraph (A) of Subdivision (30) of]~~ Section 5(30)(A) of this Act, may be dispensed unless it is ordered on a form containing two signature lines of equal prominence, side by side, at the bottom of the form. Under either signature line shall be printed clearly the words "product selection permitted," and under the other signature line shall be printed clearly the words "dispense as written." The practitioner shall communicate dispensing instructions to the pharmacist by signing on the appropriate line. If the practitioner's signature does not clearly indicate that the prescription must be dispensed as written, generically equivalent drug selection is permitted. No prescription form furnished a practitioner shall contain a preprinted order for a drug product by brand name, generic name, or manufacturer.

SECTION 26. Subsection (e), Section 2, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The term "practitioner" means a person licensed:

(1) by the State Board of Medical Examiners, State Board of Dental Examiners, State Board of Podiatry ~~[Chiropody]~~ Examiners, or ~~[and]~~ State Board of Veterinary Medical Examiners to prescribe and administer dangerous drugs;

(2) by another state in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs; or

(3) in the Dominion of Canada or the United Mexican States in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs.

SECTION 27. Section 3, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. The following acts, the failure to act as hereinafter set forth, and the causing of any such act or failure are hereby declared unlawful, except as provided in Section 4:

(a) The delivery or offer of delivery of any dangerous drug unless:

(1) Such dangerous drug is delivered or offered to be delivered by a pharmacist, pursuant to a ~~[upon an original]~~ prescription issued by a practitioner as defined by Section 2(e)(1) or (2) of this Act, and there is affixed to the immediate container in which such drug is delivered or offered to be delivered a label bearing the name and address of the pharmacy ~~[owner of the establishment]~~ from which such drug was delivered or offered to be delivered; the date on which the prescription for such drug was ~~dispensed~~ ~~[filled]~~; the number of such prescription as filed in the prescription files of the pharmacy from which the ~~[pharmacist who filled such]~~ prescription was ~~dispensed~~; the name of the practitioner who prescribed such drug; the name of the patient, and if such drug was prescribed for an animal, a statement showing the species of the animal; and the directions for use of the drug as contained in the prescription; ~~[or]~~

(2) Such dangerous drug is delivered or offered to be delivered by a practitioner in the course of his practice and the immediate container in which such



drug is delivered or offered to be delivered bears a label on which appears the date of delivery, the name and strength of the drug, the directions for use of such drug, the name and address of such practitioner, the name of the patient, and, if such drug is prescribed for an animal, a statement showing the species of the animal; or

(3) Such dangerous drug is delivered or offered to be delivered by a pharmacist, pursuant to an original written prescription issued by a practitioner as defined by Section 2(e)(3) of this Act, and a label is affixed to the immediate container in which the drug is delivered or offered to be delivered that bears the name and address of the pharmacy from which the drug was delivered or offered to be delivered; the date on which the prescription for the drug was dispensed; the number of the prescription as filed in the prescription files of the pharmacy from which the prescription was dispensed; the name of the prescribing practitioner; the name of the patient, and if the drug was prescribed for an animal, a statement showing the species of the animal; and the directions for use of the drug as contained in the prescription.

(b) The refilling of any prescription for a dangerous drug, unless and as designated on the prescription by the practitioner, or through authorization by the practitioner at the time of refilling.

(c) The delivery of a dangerous drug upon prescription unless the pharmacist who filled such prescription files and retains it as required in Section 6.

(d) The possession of a dangerous drug by any person unless such person obtained the drug under the specific provision of Section 3(a)(1) and (2) of this Act.

(e) The refusal to make available and to accord full opportunity to check any record or file as required by Section 5 and Section 6.

(f) The failure to keep records as required by Section 5 and Section 6.

(g) The using of any person to his own advantage, or revealing, other than to an officer or employee of the State Board of Pharmacy, or to a court when relevant in a judicial proceeding under this Act, any information required under the authority of Section 6, concerning any method or process which as a trade secret is entitled to protection.

(h) Except as otherwise provided in this Act, the possession for sale of any dangerous drug defined in this Act.

SECTION 28. Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes), is amended by adding Section 3A to read as follows:

Sec. 3A. A pharmacist called on to dispense a dangerous drug pursuant to a prescription issued by a practitioner as defined by Section 2(e)(3) of this Act shall determine, in the exercise of the pharmacist's professional judgment, that the prescription is authentic and was issued pursuant to a valid patient-physician relationship, and that the prescribed drug is considered necessary for the treatment of illness.

SECTION 29. Section 1.05, Article 4414b, Revised Statutes, is amended by adding Subsection (i) to read as follows:

(i)(1) The board may hold public hearings in accordance with the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) to determine whether there is compelling evidence that a dangerous drug as defined in Subsection (a), Section 2, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), has been abused by either being prescribed for nontherapeutic purposes or has been abused by the ultimate user. Upon making such a finding, the board may limit the availability of the abused drug to dispensing only upon the prescription of a practitioner as defined in Subdivision (1) or (2), Subsection (e), Section 2, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes).

(2) If the commissioner of health has compelling evidence that an immediate danger to the public health exists as a result of drugs being prescribed by practitioners as defined in Subdivision (3), Subsection (e), Section 2, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes), the commissioner may use his or her existing emergency authority to limit such drugs' availability to prescriptions from practitioners defined in Subdivision (1) or (2), Subsection (e), Section 2, of that Act.

The amendments were read.

Senator Farabee moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 1497** before appointment.

Senator Uribe moved to instruct the Conference Committee to remove the provisions of the bill which exempt the veterinarians from the Deceptive Trade Practices Act.

Senator Lyon raised the Point of Order to that instruction, stating it was outside the language in the bill.

Senator Uribe withdrew his motion to instruct the Conference Committee.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Farabee, Chairman; Uribe, Lyon, Caperton and Sarpalius.

(President in Chair)

#### CONFERENCE COMMITTEE ON HOUSE BILL 1196

Senator Barrientos called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1196** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1196** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Barrientos, Chairman; Whitmire, Parmer, Green and Johnson.

#### VOTE ON FINAL PASSAGE OF HOUSE BILL 2623 RECONSIDERED

On motion of Senator Krier and by unanimous consent, the vote by which **H.B. 2623** was finally passed was reconsidered.

Question - Shall **H.B. 2623** be finally passed?

#### VOTE ON PASSAGE TO THIRD READING OF HOUSE BILL 2623 RECONSIDERED

On motion of Senator Krier and by unanimous consent, the vote by which **H.B. 2623** was passed to third reading was reconsidered.

Question - Shall **H.B. 2623** be passed to third reading?

**VOTE ON ADOPTION OF AMENDMENT TO  
HOUSE BILL 2623 RECONSIDERED**

On motion of Senator Krier and by unanimous consent, the vote by which the amendment by Senator Krier to H.B. 2623 was adopted was reconsidered.

Question - Shall the amendment by Senator Krier be adopted?

On motion of Senator Krier and by unanimous consent, the amendment was tabled.

The bill was again passed to third reading viva voce vote.

**HOUSE BILL 2623 ON THIRD READING**

The bill was again read third time and was again passed viva voce vote.

**RECORD OF VOTES**

Senators Jones, Leedom and Anderson asked to be recorded as voting "Nay" on the final passage of the bill.

**CONFERENCE COMMITTEE REPORT  
HOUSE BILL 1262**

Senator Sims submitted the following Conference Committee Report:

Austin, Texas  
May 31, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 1262 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

SIMS  
BLAKE  
LYON  
SANTIESTEBAN

On the part of the Senate

SAUNDERS  
AGNICH  
C. JOHNSON  
PERRY  
RILEY

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT  
HOUSE BILL 858**

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas  
May 31, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 858** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROOKS  
EDWARDS  
JOHNSON  
KRIER  
PARMER

On the part of the Senate

McWILLIAMS  
STILES  
CAVAZOS

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT  
HOUSE BILL 1294**

Senator Green submitted the following Conference Committee Report:

Austin, Texas  
May 31, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1294** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GREEN  
HENDERSON  
HARRIS  
ARMBRISTER

On the part of the Senate

GAVIN  
BURNETT  
PATRICK  
PIERCE

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**SENATE CONFEREES ON  
HOUSE BILL 791 DISCHARGED**

Senator Green moved that the Senate refuse to adopt the Conference Committee Report on **H.B. 791** and that the Senate conferees be discharged.

The motion prevailed.

**CONFERENCE COMMITTEE ON  
HOUSE BILL 791**

Senator Green requested the appointment of a new Conference Committee on **H.B. 791**.

The request was granted.

The President asked if there were any motions to instruct the Conference Committee on H.B. 791 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chairman; Henderson, Glasgow, McFarland and Whitmire.

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 323**

Senator Montford submitted the following Conference Committee Report:

Austin, Texas  
May 30, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 323 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MONTFORD  
PARMER  
ARMBRISTER

T. SMITH  
C. EVANS  
SHELLEY  
YOST  
C. HARRIS

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the creation of the On-site Wastewater Treatment Research Council and account and the imposition of certain fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 2, Water Code, is amended by adding Chapter 9 to read as follows:

**CHAPTER 9. ON-SITE WASTEWATER TREATMENT RESEARCH  
COUNCIL**

**SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 9.001. DEFINITIONS. In this chapter:

(1) "Council" means the On-site Wastewater Treatment Research Council.

(2) "Account" means the on-site wastewater treatment research account.

(3) "On-site wastewater treatment system" means a single system or systems of treatment devices or disposal facilities used for the on-site disposal of domestic sewage, exclusive of industrial waste, producing wastes not to exceed 5,000 gallons per day.

(4) "Industrial wastes" means liquid wastes resulting from the processes employed in industrial and commercial establishments.

[Sections 9.002-9.010 reserved for expansion]

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

Sec. 9.011. ON-SITE WASTEWATER TREATMENT RESEARCH COUNCIL. The On-site Wastewater Treatment Research Council is created.

Sec. 9.012. COUNCIL MEMBERSHIP. The council is composed of 11 members appointed by the governor as follows:

- (1) two builders of housing constructed on-site in Texas;
- (2) one residential real estate developer;
- (3) one professional engaged in city or county regulation of on-site wastewater treatment in Texas;
- (4) one practicing engineer with significant experience designing on-site wastewater treatment systems;
- (5) one professional engaged in monitoring the environmental impact of on-site wastewater treatment systems in Texas;
- (6) one employee of the Texas Department of Health who works in water hygiene;
- (7) one representative of an industry currently using on-site wastewater treatment in Texas as part of its commercial or manufacturing process;
- (8) one member shall be employed in the field of rural water quality in Texas;
- (9) one soils scientist who is involved in and familiar with innovative on-site wastewater disposal techniques; and
- (10) one representative of the general public with a demonstrated involvement in efforts to safeguard the environment.

Sec. 9.013. TERMS OF OFFICE. The council members serve for two-year staggered terms with the terms of five members expiring September 1 of each even-numbered year, and the terms of six members expiring September 1 of each odd-numbered year.

Sec. 9.014. OFFICERS; MEETINGS. (a) Each year, the council shall elect one of its members as chairman and presiding officer.

(b) The council shall meet quarterly as designated by the chairman or may meet in an emergency as determined by the chairman or a majority of the members.

(c) The vote of a majority, but not fewer than four, of the council members present at a meeting or the written approval of a majority of the members of the council is required for any council action, including the approval of a grant request.

Sec. 9.015. COMPENSATION; EXPENSES. Each member of the council is entitled to receive the amount provided by legislative appropriation for his services together with travel and other necessary expenses as provided by law.

Sec. 9.016. ADMINISTRATION. (a) The Texas Water Commission shall implement council decisions.

(b) The council may enter into an interagency contract with the Texas Water Commission to provide staff and other administrative support as required.

(c) Administrative costs are payable from the account.

[Sections 9.017-9.040 reserved for expansion]

**SUBCHAPTER C. POWERS AND DUTIES**

Sec. 9.041. AWARD OF COMPETITIVE GRANTS. The council may award competitive grants to:

- (1) support applied research at accredited colleges and universities in Texas regarding on-site wastewater treatment technology and systems applicable to Texas and directed toward improving the quality of wastewater treatment and reducing the cost of providing wastewater treatment to consumers; and
- (2) enhance technology transfer regarding on-site wastewater treatment by using educational courses, seminars, symposia, publications, and other forms of information dissemination.

Sec. 9.042. PROCEDURES FOR AWARDING GRANTS. The council shall establish procedures for awarding competitive grants and disbursing grant money.

Sec. 9.043. LIMITATION ON USE OF ACCOUNT. The council may award grants or make other expenditures authorized under this chapter only after the state comptroller certifies that the account established under this chapter contains enough money to pay for those expenditures.

[Sections 9.044-9.060 reserved for expansion]

#### **SUBCHAPTER D. ON-SITE WASTEWATER TREATMENT RESEARCH ACCOUNT**

Sec. 9.061. ON-SITE WASTEWATER TREATMENT RESEARCH ACCOUNT. The on-site wastewater treatment research account is created in the State Treasury.

Sec. 9.062. FEE. (a) Each county or river authority shall impose and collect a \$10 fee for each on-site wastewater treatment permit it issues.

(b) The fee shall be forwarded to the commission not later than the 30th day after the date on which the fee is collected. The commission is authorized to enforce the collection and forwarding of the fee.

(c) The fee proceeds shall be deposited in the general revenue fund in the State Treasury to the credit of the account.

(d) Interest that accrues on money in the account shall be deposited to the credit of the general revenue fund.

Sec. 9.063. DISBURSEMENT. Money from the account shall be appropriated in accordance with the General Appropriations Act and disbursed as directed by the council and in accordance with Subchapter C of this chapter.

[Sections 9.064-9.080 reserved for expansion]

#### **SUBCHAPTER E. MISCELLANEOUS PROVISIONS**

Sec. 9.081. APPLICATION OF SUNSET ACT. The On-site Wastewater Treatment Research Council is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the council is abolished and this chapter expires on August 31, 1999.

Sec. 9.082. UNCOMMITTED MONEY. If this chapter expires under Section 9.081 of this chapter, uncommitted money in the account established under this chapter shall be deposited to the credit of the general revenue fund.

SECTION 2. Chapter 26, Water Code, is amended by adding Section 26.0271 to read as follows:

Sec. 26.0271. LIMITATIONS ON PERMITS: RESERVOIRS. (a) The commission may issue, amend, or renew a permit, subject to the limitations set out in Subsections (b) and (c) of this section for the discharge of waste or pollutants into a water-supply reservoir that was constructed prior to 1935 by a water control and improvement district, a substantial portion of which reservoir is within a county having a population of 800,000 or more, according to the most recent federal census, and has a conservation storage capacity greater than 175,000 acre feet.

(b) Permits for the discharge of waste or pollutants into reservoirs described in Subsection (a) of this section and discharges into all watercourses that are tributary to such reservoirs from sewage disposal systems that are not operated in conjunction with a facility owned or operated by an electric utility, as defined by Section 3(c)(1) of the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), providing service in the state shall in addition to other limitations required by law meet all of the following limitations:

(1) the discharge shall not cause or result in any degradation of the existing water quality of the receiving body of water or stream;

(2) the waste treatment process shall employ the most advanced and reliable waste treatment available under existing technology, regardless of costs; and

(3) at a minimum, the effluent from the waste treatment plant shall not exceed 5 milligrams/liter of biochemical oxygen demand and total suspended solids, 1 milligram/liter of total nitrogen, .5 milligrams/liter of total phosphorous, and free of active viruses.

(c) Permits for the discharge of waste or pollutants into reservoirs described in Subsection (a) of this section and discharges into all watercourses that are tributary to such reservoirs from sewage disposal systems that are operated in conjunction with a facility owned or operated by an electric utility, as defined by Section 3(c)(1) of the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), providing service in the state shall meet all of the currently applicable standards of the commission.

SECTION 3. Section 2 of this Act applies only to an application for a permit, an amendment to a permit, or a renewal of a permit for the discharge of waste or pollutants filed on or after the effective date of this Act.

SECTION 4. The governor shall appoint the initial members of the On-site Wastewater Treatment Research Council, as provided by Chapter 9, Water Code. The governor shall designate five initial members to serve terms that expire on September 1, 1988, and six to serve terms that expire on September 1, 1989.

SECTION 5. This Act takes effect on September 1, 1987.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### SENATE BILL 1441 WITH HOUSE AMENDMENT

By unanimous consent, Senator Harris called S.B. 1441 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### Floor Amendment - Glossbrenner

Amend S.B. 1441 on page 5 by striking Sections 9 and 10 of the bill and substituting the following:

SECTION 9. Section 1.005(23), Election Code, is amended to read as follows:

(23) "Voting year" means the 12-month period beginning January ~~March~~ 1 of each year.

SECTION 10. Section 13.142(c), Election Code, is amended to read as follows:

(c) An initial certificate takes effect on the effective date of the registration and expires the following January ~~March~~ 1 of an even-numbered year.

SECTION 11. Subsections (c) and (d), Section 14.001, Election Code, as amended by Chapter 14, Acts of the 69th Legislature, 3rd Called Session, 1986, to be effective September 1, 1987, are amended to read as follows:

(c) A renewal certificate is valid for two years beginning on January ~~March~~ 1 following its issuance.

(d) At the time the registrar issues an initial certificate for a voter whose registration will be effective after November 14 of an odd-numbered year and before January ~~March~~ 1 of the following year, the registrar shall also issue the voter a renewal certificate.

SECTION 12. Section 14.025(a), Election Code, as amended by Chapter 14, Acts of the 69th Legislature, 3rd Called Session, 1986, to be effective September 1, 1987, is amended to read as follows:



(a) Before January [~~March~~] 1 of each even-numbered year, the registrar shall deliver a copy of the list of returned certificates to the secretary of state in the form prescribed by the secretary.

SECTION 13. Section 14.052(a), Election Code, is amended to read as follows:

(a) In an election held on or after January [~~March~~] 1 and before August 16 of an even-numbered year, a voter whose name appears on a precinct list of registered voters with the notation "R", or a similar notation, may vote in the election precinct in which the list is used if the voter resides in the county in which the voter is registered and, if applicable:

(1) resides in the political subdivision served by the authority ordering the election if the political subdivision is other than the county; or

(2) resides in the territory covered by the election in a less-than-countywide election ordered by the governor or a county authority.

SECTION 14. Subsections (a) and (c), Section 18.041, Election Code, as amended by S.B. 280, 70th Legislature, Regular Session, 1987, to be effective September 1, 1987, are amended to read as follows:

(a) Each voting year, the registrar shall prepare a written statement of the number of persons in each county election precinct whose voter registrations will be effective on January [~~March~~] 1.

(c) The registrar shall file the statement with the secretary of state not later than January [~~March~~] 1.

SECTION 15. Section 18.063(a), Election Code, is amended to read as follows:

(a) On or after January [~~March~~] 1 but before January [~~March~~] 16 and on or after September 1 but before September 16 of each even-numbered year, each registrar shall deliver to the secretary of state a list containing each new registration, canceled registration, and change in registration information that has occurred in the county since the delivery of the previous corresponding list. The information on the list must be current as of the date of delivery. The secretary shall use the information to update the state master file.

SECTION 16. Sections 42.031 and 42.032, Election Code, are amended to read as follows:

Sec. 42.031. REVIEWING PRECINCTS FOR COMPLIANCE: BOUNDARY CHANGES. (a) During March [~~July~~] or April [~~August~~] of each odd-numbered year, each commissioners court shall determine whether the county election precincts comply with Sections 42.005, 42.006, and 42.007. The commissioners court may make that determination during March [~~July~~] or April [~~August~~] of an even-numbered year. Before May [~~September~~] 1 of the year in which the determination is made, the commissioners court shall order the boundary changes necessary for compliance.

(b) The commissioners court may order a boundary change only during March [~~July~~] or April [~~August~~] unless the change is necessary to:

- (1) comply with Section 42.005 or 42.032;
- (2) reduce the number of registered voters in a precinct so it does not exceed the maximum number permitted by Section 42.006; or
- (3) include within a precinct a suitable building available for use as a polling place if no suitable building is available for that purpose within the existing precinct boundary.

Sec. 42.032. REDISTRICTING: BOUNDARY CHANGES. If changes in county election precinct boundaries are necessary to give effect to a redistricting plan under Article III, Section 28, of the Texas Constitution, each commissioners court shall order the changes before October [~~December~~] 1 of the year in which the redistricting is done.

SECTION 17. Each renewal registration certificate issued in 1987 in accordance with Section 14.001, Election Code, must indicate that it is valid from March 1, 1988, through December 31, 1989.

SECTION 18. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1987.

(b) Sections 9-15 of this Act take effect September 1, 1989.

SECTION 19. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed viva voce vote.

#### MESSAGE FROM THE HOUSE

House Chamber  
May 31, 1987

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House refused to concur in Senate amendments to **H.B. 1459** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: T. Smith; C. Johnson, Shea, Finnell and Whaley.

The House refused to concur in Senate amendments to **H.B. 1176** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Earley, Chairman; H. Cuellar, McKinney, Robinson and Grusendorf.

The House refused to concur in Senate amendments to **H.B. 812** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Yost, Chairman; Taylor, Leonard, Riley and Russell.

The House refused to concur in Senate amendments to **H.B. 612** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Hackney, Chairman; Ceverha, Aikin, Glossbrenner and Hilbert.

The House refused to concur in Senate amendments to **H.B. 102** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Delco, Chairman; Rodriguez, D. Hudson, Watkins and Rangel.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### SENATE BILL 977 WITH HOUSE AMENDMENT

By unanimous consent, Senator Armbrister called **S.B. 977** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Committee Amendment - Criss**

Amend **S.B. 977** as follows:

On page 2, line 25, change twenty (20) to fourteen (14).

On page 3, line 3, Change twenty (20) to fourteen (14).

The amendment was read.

Senator Armbrister moved to concur in the House amendment.

The motion prevailed viva voce vote.

**SENATE BILL 666 WITH HOUSE AMENDMENTS**

By unanimous consent, Senator Armbrister called **S.B. 666** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Committee Amendment No. 1 - Roberts**

Amend **S.B. 666** on page 1 Section 3 line 23 to read as follows:

"SECTION 3. POWERS AND DUTIES OF DEPARTMENT. (a) The department shall adopt rules regarding only the minimum insurance requirements for the operation of tow trucks and minimum safety standards regarding the operation of tow trucks."

Delete subsection (b) of Section 3 on page 2, lines 2 through 3. Allocate new subsection letters as appropriate to the following subsections (c) and (d).

**Committee Amendment No. 2 - Roberts**

Amend **S.B. 666** on page 3 by deleting lines 16-18 and inserting the following:

"The department shall adopt rules establishing the procedures for denial, suspension, revocation, or reinstatement of a certificate of registration for failure to follow the insurance and minimum safety requirements established by the department."

The amendments were read.

Senator Armbrister moved to concur in the House amendments.

The motion prevailed viva voce vote.

**SENATE BILL 1038 WITH HOUSE AMENDMENT**

By unanimous consent, Senator Krier called **S.B. 1038** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Committee Amendment - Schoolcraft**

Amend **S.B. 1038** on page 1, line 13, after the word "purposes," by adding "in satisfaction of a gift intended to qualify for a United States estate tax marital deduction,"

The amendment was read.

Senator Krier moved to concur in the House amendment.

The motion prevailed viva voce vote.

**SENATE BILL 1502 WITH HOUSE AMENDMENT**

By unanimous consent, Senator Glasgow called **S.B. 1502** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Committee Amendment - Yost**

Amend **S.B. 1502** as follows:

(1) Strike Section 1(a) of the bill and substitute the following:

(a) Pursuant to Article XVI, Section 59, of the Texas Constitution, and subject to a confirmation election under Section 26 of this Act, a district located within the present corporate limits of the City of Lewisville, Texas, in Denton County, is created and shall be known as Lakeside Utility and Reclamation District.

(2) Strike Sections 8(d), (e), (f), and (g) of the bill and substitute the following:

(d) If a vacancy occurs in the office of director, the remaining directors shall appoint a person to fill the vacancy until the next directors' election. If that position is not regularly scheduled to be filled at that election, the person elected to fill the position shall serve only for the remainder of the unexpired term. However, if the number of qualified directors by reason of vacancies is less than three, the city council of the city, on petition of any landowner in the district, shall appoint the necessary number of directors to fill all vacancies on the board.

(e) The initial directors shall serve until the third Saturday in May, 1988. The two directors who receive the fewest number of votes at the directors' election held on the third Saturday in May, 1988, shall serve until the first regular directors' election thereafter and until the directors elected at that first regular directors' election are elected and have qualified for office. The three remaining directors shall serve until the second regular directors' election held after the third Saturday in May, 1988, and until the directors elected at the second regular directors' election are elected and have qualified for office.

(f) After the directors' election held on the third Saturday in May, 1988, a regular directors' election shall be held on the third Saturday in May in each even-numbered year to elect the appropriate number of directors.

(g) Except for the initial directors and the two directors who receive the fewest number of votes at the directors' election held on the third Saturday in May, 1988, directors shall serve for staggered four-year terms.

(3) Strike Section 18 of the bill and substitute the following:

**SECTION 18. BONDS.** The board may issue and sell bonds in the name of the district as provided by Subchapter F, Chapter 54, Water Code, this Act, and the general laws of this state.

(4) Insert a new Section 26 to read as follows:

**SECTION 26. CONFIRMATION AND DIRECTORS' ELECTION.** An election shall be called and held to confirm establishment of the district and to elect five permanent directors as provided by Chapter 54, Water Code.

(5) Renumber subsequent sections accordingly.

The amendment was read.

Senator Glasgow moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Brown.

Absent-excused: Whitmire.

**SENATE BILL 1373 WITH HOUSE AMENDMENT**

By unanimous consent, Senator Glasgow called **S.B. 1373** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Committee Amendment - Yost**

Substitute the following for **S.B. 1373**:

**SECTION 1. CREATION; LEGISLATIVE DECLARATION.** (a) Pursuant to Article XVI, Section 59, of the Texas Constitution a conservation and reclamation district is created in Palo Pinto County to be known as "Cliffs Municipal Utility District," which shall be a governmental agency and a body politic and corporate.

(b) The creation of the district is declared to be essential to the accomplishment of the purposes of Article XVI, Section 59, of the Texas Constitution.

**SECTION 2. DEFINITION.** In this Act, "district" means Cliffs Municipal Utility District.

**SECTION 3. BOUNDARIES.** The district shall include all of the territory contained within the following described area:

BEING 835.66 acres of land lying in the A. J. Berry Survey, Abstract No. 1315, the W. J. Wesley Survey, Abstract No. 1086, the A. B. & M. Survey No. 1, Abstract No. 10, the A. B. & M. Survey No. 2, Abstract No. 1816, the A. B. & M. Survey No. 3, Abstract No. 98, the A. B. & M. Survey No. 4, Abstract No. 1814 and the Garcia, Montez & Duran Survey, Abstract No. 1540, Palo Pinto County, Texas, same being a part of a 1223.82 acre tract of land described by deed recorded in volume 420, pages 8-13, Deed Records of Palo Pinto County, Texas, and described more particularly as follows;

BEGINNING at a nail set in a fence post in the west right-of-way of State Highway 16 (120 foot wide right-of-way) for the most southerly corner, same being the most southerly corner of the aforementioned 1223.82 acres, same also being the most southerly corner of a 651.503 acre tract of land described by deed recorded in volume 622, pages 293-306, deed records of Palo Pinto, County, Texas;

THENCE along the west boundary of the aforementioned 1223.82 acres and the west boundary of the aforementioned 651.503 acres, N 9° 24' 41" W a distance of 845.78 feet to a nail set in a fence post for an interior corner, same being an interior corner of the said 651.503 acres, same lying in the south line of a boundary line agreement recorded in volume 417, pages 339-342, Deed Records of Palo Pinto County, Texas;

THENCE along the south line of the aforementioned 1223.82 acres, the south line of the aforementioned 651.503 acres and the south line of the aforementioned boundary line agreement, N 89° 44' 56" W a distance of 3259.01 feet to an iron rod set for the most southerly southwest corner, same being the most southerly southwest corner of the said 651.503 acres;

THENCE along the west line of the aforementioned 651.503 acres and the east line of the remaining portion of the aforementioned 1223.82 acres, N 7° 25' 50" W a distance of 2070.00 feet to an iron rod set for an interior corner, same being an interior corner of the said 651.503 acres;

THENCE along the south line of the aforementioned 651.503 acres and the north boundary of the remaining portion of the aforementioned 1223.82 acres, N 89° 44' 56" W a distance of 690.00 feet to an iron rod set for the most westerly southwest corner, same being the most westerly southwest corner of the said 651.503 acres; THENCE along the west line of the aforementioned 651.503 acres and the east line of the remaining portion of the aforementioned 1223.82 acres, N 7° 25' 50" W a

distance of 721.78 feet to an iron pin set for a northwest corner, same lying on the 1000 foot contour line of Possom Kingdom Lake;

THENCE along the aforementioned 1000 foot contour line as follows:

N 64° 24' 36" E a distance of 97.42 feet;  
N 69° 46' 19" E a distance of 97.64 feet;  
N 47° 51' 10" E a distance of 99.97 feet;  
N 31° 32' 46" E a distance of 71.74 feet;  
S 52° 31' 31" W a distance of 56.21 feet;  
S 57° 19' 41" W a distance of 113.23 feet;  
S 70° 27' 46" W a distance of 52.58 feet;  
S 79° 13' 59" W a distance of 114.69 feet;  
S 89° 35' 21" W a distance of 84.67 feet;  
N 73° 22' 58" W a distance of 55.41 feet;  
N 51° 55' 09" W a distance of 49.40 feet;  
N 12° 01' 23" W a distance of 181.44 feet;  
N 01° 04' 08" W a distance of 151.49 feet;  
N 14° 48' 58" W a distance of 100.12 feet;  
N 32° 15' 36" W a distance of 240.90 feet;  
N 54° 39' 49" W a distance of 104.01 feet;  
N 62° 56' 49" W a distance of 330.14 feet;  
N 51° 59' 59" W a distance of 120.98 feet;  
N 27° 36' 17" W a distance of 100.15 feet;  
N 25° 30' 20" E a distance of 30.97 feet;  
S 83° 57' 50" E a distance of 83.62 feet;  
S 86° 43' 16" E a distance of 99.47 feet;  
N 54° 10' 41" E a distance of 99.17 feet;  
N 50° 30' 27" E a distance of 83.85 feet;  
S 69° 22' 25" W a distance of 140.85 feet;  
N 85° 43' 05" W a distance of 48.22 feet;  
N 49° 00' 33" W a distance of 104.08 feet;  
N 75° 14' 34" W a distance of 200.50 feet;  
N 59° 25' 38" W a distance of 53.33 feet;  
N 45° 00' 35" W a distance of 96.92 feet;  
N 34° 37' 59" W a distance of 120.12 feet;  
N 35° 37' 39" W a distance of 89.14 feet;  
N 47° 44' 09" W a distance of 228.25 feet;  
N 41° 57' 05" W a distance of 189.71 feet;  
N 51° 47' 11" W a distance of 85.63 feet;  
N 53° 39' 37" W a distance of 157.10 feet;  
N 48° 07' 20" W a distance of 71.76 feet;  
N 37° 11' 08" W a distance of 45.14 feet;  
N 55° 14' 57" W a distance of 77.73 feet;  
N 48° 27' 32" W a distance of 51.93 feet;  
N 42° 55' 47" W a distance of 99.35 feet;  
N 43° 31' 45" W a distance of 81.76 feet;  
N 37° 39' 23" W a distance of 129.48 feet;  
N 27° 20' 23" W a distance of 133.08 feet;  
N 17° 09' 46" W a distance of 121.26 feet;  
N 04° 20' 06" W a distance of 57.21 feet;  
N 16° 10' 03" E a distance of 50.48 feet;  
N 38° 08' 10" E a distance of 68.69 feet;  
N 07° 52' 23" E a distance of 88.71 feet;  
N 28° 44' 06" E a distance of 79.10 feet;  
N 46° 13' 01" E a distance of 128.98 feet;

N 12° 02' 56" E a distance of 57.45 feet;  
N 63° 49' 37" E a distance of 58.09 feet;  
N 33° 40' 47" E a distance of 48.27 feet;  
N 40° 09' 37" E a distance of 69.36 feet;  
N 29° 11' 22" E a distance of 111.98 feet;  
N 17° 30' 56" E a distance of 75.75 feet;  
N 33° 40' 32" E a distance of 69.16 feet;  
N 50° 58' 12" E a distance of 64.35 feet;  
N 82° 16' 13" E a distance of 139.04 feet;  
N 73° 16' 35" E a distance of 73.66 feet;  
S 86° 55' 09" E a distance of 76.15 feet;  
S 54° 24' 03" E a distance of 196.77 feet;  
S 43° 19' 59" E a distance of 88.84 feet;  
S 40° 51' 13" E a distance of 116.91 feet;  
S 60° 20' 24" E a distance of 84.72 feet;  
S 43° 38' 24" E a distance of 133.57 feet;  
N 18° 40' 41" W a distance of 93.58 feet;  
N 27° 12' 19" W a distance of 30.64 feet;  
N 41° 56' 02" W a distance of 123.56 feet;  
N 18° 27' 35" W a distance of 127.22 feet;  
N 01° 23' 24" E a distance of 25.13 feet;  
N 36° 36' 54" E a distance of 49.59 feet;  
N 09° 15' 17" E a distance of 34.02 feet;  
N 63° 29' 36" E a distance of 55.86 feet;  
N 62° 13' 03" E a distance of 75.55 feet;  
N 63° 35' 16" E a distance of 226.94 feet;  
N 55° 57' 53" E a distance of 313.63 feet;  
N 87° 08' 39" E a distance of 113.03 feet;  
S 37° 38' 59" E a distance of 420.82 feet;  
S 33° 05' 50" E a distance of 112.43 feet;  
S 57° 16' 23" E a distance of 383.86 feet;  
S 81° 49' 00" E a distance of 97.55 feet;  
S 55° 12' 02" E a distance of 88.47 feet;  
S 49° 10' 39" E a distance of 216.79 feet;  
S 52° 24' 40" E a distance of 376.12 feet;  
S 42° 17' 31" E a distance of 232.93 feet;  
S 33° 26' 11" E a distance of 154.96 feet;  
S 59° 39' 41" E a distance of 268.56 feet;  
S 52° 16' 49" E a distance of 167.50 feet;  
S 71° 16' 53" E a distance of 180.84 feet;  
S 48° 26' 53" E a distance of 53.54 feet;  
N 07° 35' 51" W a distance of 111.54 feet;  
N 29° 34' 54" E a distance of 33.68 feet;  
N 68° 48' 10" E a distance of 35.86 feet;  
S 87° 28' 41" E a distance of 39.58 feet;  
S 86° 31' 23" E a distance of 171.29 feet;  
S 84° 07' 32" E a distance of 473.93 feet;  
S 89° 51' 04" E a distance of 346.00 feet;  
N 66° 40' 26" E a distance of 41.10 feet;  
N 78° 50' 06" E a distance of 238.24 feet;  
S 86° 38' 19" E a distance of 180.64 feet;  
N 54° 49' 54" E a distance of 66.86 feet;  
N 72° 19' 30" E a distance of 280.73 feet;  
N 79° 48' 33" E a distance of 196.82 feet;

S 52° 52' 10" E a distance of 91.97 feet;  
 S 30° 03' 47" E a distance of 82.94 feet;  
 N 13° 41' 46" E a distance of 46.17 feet;  
 N 36° 58' 59" E a distance of 114.14 feet;  
 N 08° 36' 41" E a distance of 101.18 feet;  
 N 50° 24' 03" E a distance of 265.34 feet;  
 N 73° 15' 33" E a distance of 48.36 feet;  
 N 54° 13' 51" E a distance of 160.39 feet;  
 N 44° 50' 11" E a distance of 611.15 feet;  
 N 27° 53' 40" E a distance of 354.65 feet;  
 N 05° 43' 15" W a distance of 43.27 feet;  
 N 38° 09' 08" E a distance of 155.19 feet;

and N 30° 26' 24" E a distance of 83.24 feet to an iron rod set for a northwest corner, same lying in the north line of the aforementioned 651.503 acres and the north line of the aforementioned 1223.82 acres, same also lying in the south line of a 423.43 acre tract of land described by Deed Recorded in Volume 172, Page 314, deed records of Palo Pinto County, Texas;

THENCE along the north boundary of the aforementioned 651.503 acres, the north boundary of the aforementioned 1223.82 acres and the south line of the aforementioned 423.43 acres, S 88° 50' 23" E a distance of 1150.81 feet to a brass disc in concrete N 85° 07' 08" E a distance of 909.59 feet to a brass disc in concrete and N 71° 03' 24" E, passing a brass disc in concrete at 2194.45 feet, a total distance of 2758.56 feet to a point for the most northerly corner, same being the most northerly corner of the said 651.503 acres, same lying on the west bank of the Brazos River;

THENCE along the east line of the aforementioned 651.503 acres and the west bank of the aforementioned Brazos River, S 29° 12' 25" E a distance of 248.68 feet to a point in the northwest right-of-way of the aforementioned State Highway 16 for the most easterly corner, same being the most easterly corner of the said 651.503 acres; THENCE along the east line of the aforementioned 651.503 acres and the west right-of-way of the aforementioned State Highway 16, S 54° 36' 16" W a distance 370.00 feet to an iron pin for the point of curvature of a curve to the right having a radius of 2804.93 feet, a central angle of 8° 11' 00" and a chord which bears S 58° 41' 46" W 400.28 feet;

THENCE continuing an arc distance of 400.62 feet to an iron rod set for a point of tangency and S 62° 47' 16" W a distance of 2049.00 feet to an iron rod set for the point of curvature of a curve to the left having a radius of 2924.93 feet, a central angle of 8° 11' 00" and a chord which bears S 58° 41' 46" W 417.40 feet;

THENCE continuing an arc distance of 417.76 feet to an iron rod set for the point of tangency and S 54° 36' 16" W a distance of 854.90 feet to an iron rod set for the point of curvature of a curve to the left having a radius of 1492.70 feet, a central angle of 27° 19' 00" and a chord which bears S 40° 56' 46" W 704.95 feet;

THENCE continuing an arc distance of 711.67 to an iron rod set for the point of tangency and S 27° 17' 16" W a distance of 978.20 feet to an iron rod set for a point of curvature of a curve to the left, having a radius of 2352.00 feet, a central angle of 34° 16' 00" and a chord which bears S 10° 09' 16" W 1385.78 feet;

THENCE continuing an arc distance of 1406.65 feet to an iron rod set for a point of tangency and S 6° 58' 44" E a distance of 1241.60 feet to an iron rod set for the point of curvature of a curve to the right having a radius of 2232.00 feet, a central angle of 44° 11' 00" and a chord which bears S 15° 06' 46" W 1678.86 feet;

THENCE continuing an arc distance of 1721.19 feet to an iron rod set for a point of tangency and S 37° 12' 16" W a distance of 668.93 feet to the PLACE OF BEGINNING containing 835.69 acres of land.

SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. If any mistake



is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect taxes, or in any other manner affects the legality or operation of the district or its governing body.

**SECTION 5. FINDING OF BENEFIT.** The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution and that the district is created to serve a public use and benefit.

**SECTION 6. POWERS.** (a) The district has all of the rights, powers, privileges, authority, and functions conferred by the general laws of this state applicable to municipal utility districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 50 and Chapter 54, Water Code. If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails.

(b) The rights, powers, privileges, authority, and functions granted to the district are subject to the continuing right of supervision of the State of Texas to be exercised by and through the Texas Water Commission.

**SECTION 7. BOARD OF DIRECTORS.** (a) The district is governed by a board of five directors.

(b) Except for the initial directors, each director shall serve for the term of office provided for directors under Chapter 54, Water Code, and until his successor is elected and has qualified.

(c) Each director shall qualify to serve as director in the manner provided by Chapter 54, Water Code.

(d) At the time this Act takes effect, the following persons shall constitute the initial board of directors of the district:

- (1) Richard Haney
- (2) Philip A. Edmundson
- (3) L. Conley Juban, Jr.
- (4) Patrice Anderson
- (5) James E. Fults.

(e) If any of the directors listed in Subsection (d) of this section fails to qualify for office, the remaining directors shall appoint someone to fill the vacancy for the unexpired term. If at any time the number of qualified directors is less than three because of the failure or refusal of one or more directors to qualify or serve, because of death or incapacitation, or for any other reason, the Texas Water Commission shall appoint the necessary number of directors to fill all vacancies on the board.

(f) The initial directors shall serve until permanent directors are elected as provided by Section 9 of this Act and Chapter 54, Water Code.

(g) Each member of the board is entitled to receive compensation in an amount not to exceed \$50 for each meeting of the board as determined by the board, not to exceed \$250 a month, and directors may be reimbursed for actual expenses incurred on behalf of the district or in the discharge of their duties.

**SECTION 8. CONFIRMATION AND DIRECTORS' ELECTION.** (a) An election shall be called and held to confirm establishment of the district and to elect five permanent directors as provided by Chapter 54, Water Code.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

**SECTION 9. ELECTION OF DIRECTORS.** Beginning in the second year following the confirmation and directors' election, an election shall be held on the third Saturday in May every two years to elect the appropriate number of directors to the board.

**SECTION 10. ADDITIONAL POWERS.** (a) The district may engage in fire-fighting activities and may issue bonds or other obligations of the district for fire-fighting purposes as provided by this Act.

(b) If the estimated amount of a proposed construction contract proposed to be entered into by the district is more than \$5,000, but less than \$25,000, or the duration of the contract is more than two years, informal competitive bids or proposals shall be asked from at least three bidders. The contracts shall be awarded to the lowest and best bidder.

(c) The district may enter into, execute, perform, and carry out contracts it may consider appropriate under Chapter 224, Acts of the 56th Legislature, Regular Session, 1959 (Article 1109j, Vernon's Texas Civil Statutes).

**SECTION 11. FISCAL PROVISIONS.** (a) The district has the rights, powers, privileges, and authority conferred by Article III, Section 52, of the Texas Constitution, the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(b) The district may issue short-term obligations in accordance with Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes); however, notwithstanding the provisions of that Act, the district may pledge ad valorem taxes in support of short-term obligations.

(c) Bonds for the purposes described in Section 10(a) of this Act may be issued by the district on a vote of a two-thirds majority of the qualified voters of the district voting at an election called and held to authorize bonds for those purposes. Bonds, notes, or other obligations of the district issued or incurred for the purposes provided by Section 10(a) of this Act may not exceed one-fourth of the assessed valuation of the real property in the district.

**SECTION 12. TAX COLLECTOR.** (a) The board shall appoint a person as tax collector for the district and may appoint deputies considered necessary.

(b) Each person appointed shall qualify by executing a bond in the amount of \$10,000 payable to the district, approved by the board, and conditioned on the faithful performance of his duties.

(c) The tax collector and his deputies are entitled to receive compensation in an amount set by the board.

**SECTION 13. NOTICE, ETC.** The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also, the legislature finds that the Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives, within the required time. All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

**SECTION 14. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Glasgow moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Brown.

Absent-excused: Whitmire.

#### SENATE BILL 168 WITH HOUSE AMENDMENT

By unanimous consent, Senator Caperton called S.B. 168 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### Floor Amendment - Hinojosa

Amend S.B. 168 as follows:

(1) On page 1, line 20, strike "[and]" and substitute "and any discussion of public business is incidental to the functions, conventions, or workshops".

(2) On page 6, line 6, strike "[interested]" and substitute "interested".

The amendment was read.

Senator Caperton moved to concur in the House amendment.

The motion prevailed viva voce vote.

#### SENATE BILL 163 WITH HOUSE AMENDMENTS

By unanimous consent, Senator Caperton called S.B. 163 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Committee Amendment - Rangel

Amend S.B. 163 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 43.105(a), Government Code, is amended to read as follows:

(a) The voters of Montgomery, Polk, and Waller counties ~~[the 9th Judicial District]~~ elect a district attorney for the 9th Judicial District who represents the state in that district court only in those counties. The district attorney also acts as district attorney for ~~[in Montgomery, Polk, and San Jacinto counties of]~~ the Second 9th Judicial District in Montgomery and Polk counties.

SECTION 2. Section 43.171(b), Government Code, is amended to read as follows:

(b) The district attorney of the 258th Judicial District also acts as district attorney for the Second 9th Judicial District in San Jacinto and Trinity counties and as district attorney for the 9th Judicial District in San Jacinto County.

SECTION 3. This Act takes effect January 1, 1989.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### Floor Amendment - Hammond

Amend S.B. 163 by striking all below the enacting clause and substituting the following:

**ARTICLE I. AMENDMENTS**

SECTION 1.01. Subsection (a), Section 43.105, Government Code, is amended to read as follows:

(a) The voters of Montgomery, Polk, and Waller counties ~~[the 9th Judicial District]~~ elect a district attorney for the 9th Judicial District who represents the state in that district court only in those counties. The district attorney also acts as district attorney for ~~[in Montgomery, Polk, and San Jacinto counties of]~~ the Second 9th Judicial District in Montgomery and Polk counties.

SECTION 1.02. Subsection (b), Section 43.171, Government Code, is amended to read as follows:

(b) The district attorney of the 258th Judicial District also acts as district attorney for the Second 9th Judicial District in San Jacinto and Trinity counties and as district attorney for the 9th Judicial District in San Jacinto County.

**ARTICLE II. CONTINGENT AMENDMENTS**

SECTION 2.01. If S.B. No. 591, creating the office of criminal district attorney in Polk County, is enacted by the 70th Legislature, Regular Session, 1987, and becomes law, Section 1.01 of this Act has no effect, Section 1 of S.B. No. 591 is repealed, and Section 43.105(a), Government Code, is amended to read as follows:

(a) The voters of Montgomery and Waller counties ~~[the 9th Judicial District]~~ elect a district attorney for the 9th Judicial District who represents the state in that district court only in those counties. The district attorney also acts as district attorney for ~~[in Montgomery, Polk, and San Jacinto counties of]~~ the Second 9th Judicial District in Montgomery County.

SECTION 2.02. If S.B. No. 591, creating the office of criminal district attorney in Polk County, is enacted by the 70th Legislature, Regular Session, 1987, and becomes law, Section 2 of S.B. No. 591 is repealed, and Section 43.171(a), Government Code, is amended to read as follows:

(a) The voters of San Jacinto and Trinity counties ~~[the 258th Judicial District]~~ elect a district attorney for the 258th Judicial District who represents the state in that district court only in those counties. ~~[In addition to exercising the duties and authority provided by general law for district attorneys, the district attorney represents the state in all felony cases before the 258th District Court in Polk, San Jacinto, and Trinity counties.]~~

**ARTICLE III. MISCELLANEOUS PROVISIONS**

SECTION 3.01. This Act takes effect September 1, 1987.

SECTION 3.02. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendments were read.

Senator Caperton moved to concur in House amendments.

The motion prevailed viva voce vote.

**SENATE CONCURRENT RESOLUTION 122 WITH HOUSE AMENDMENT**

By unanimous consent, Senator Parker called S.C.R. 122 from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

**Amendment - C. Evans**

Amend S.C.R. 122 by striking all resolving clauses and substituting the following:

RESOLVED, That the 70th Legislature of the State of Texas hereby establish a special interim committee to study Texas law and procedure relating to security for judgments in order to clarify the law and afford equity, while preserving the right of persons to obtain appropriate relief and access through the appellate processes in the court system; and, be it further

RESOLVED, That the study address (1) the need to clarify the law to confirm that the courts have flexibility and discretion in determining the amount of bond required to supersede a judgment; (2) the desirability of providing that the posting of a bond in the required amount shall also supersede the right to obtain abstracts of judgments and full judgment liens; and (3) whether a maximum level of bond should be established consistent with the availability of surety bonding capacity and the Texas constitutional policy of ensuring open access to the courts; and, be it further

RESOLVED, That the interim study committee be named the Joint Special Committee on Security for Judgments; and, be it further

RESOLVED, That the Committee be composed of 10 members: five members of the senate, to be appointed by the lieutenant governor; and five members of the house of representatives, to be appointed by the speaker of the house; that the lieutenant governor and speaker each designate one of their appointees as a cochair; and that the committee shall subsequently hold meetings and public hearings at the call of the cochairs; and, be it further

RESOLVED, That the committee have the power to issue process as provided in the senate and house rules of procedure and in Section 301.024, Government Code; and, be it further

RESOLVED, That the committee have all other powers and duties provided to special committees by the senate and house rules of procedure, by Subchapter B, Chapter 301, Government Code, and by policies of the committees on administration; and, be it further

RESOLVED, That from the contingent expense fund of the senate and the contingent expense fund of the house equally, the members of the committee be reimbursed for their expenses incurred in carrying out the provisions of this resolution in accordance with the senate and house rules of procedure and the policies of the committees on administration, and that other necessary expenses of operation be paid from the contingent expense fund of the senate and the contingent expense fund of the house equally; and, be it further

RESOLVED, That the interim study committee make a complete report, including findings and recommendations and drafts of any legislation considered necessary, to the 71st Legislature when it convenes in January 1989. Five copies of the completed report shall be filed in the Legislative Reference Library; five copies shall be filed with the Texas Legislative Council; two copies shall be filed with the secretary of the senate; and two copies shall be filed with the speaker of the house. Following official distribution of the committee report, all remaining copies shall be deposited with the legislative reference librarian.

The amendment was read.

Senator Parker moved to concur in the House amendment.

The motion prevailed viva voce vote.

#### **SENATE BILL 115 WITH HOUSE AMENDMENTS**

By unanimous consent, Senator Leedom called S.B. 115 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Committee Amendment - Gibson**

Amend S.B. 115 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Article 2, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by amending Section 2.06 and by adding Sections 2.08 and 2.09 to read as follows:

Sec. 2.06. ADMINISTRATION ~~[EXECUTIVE DIRECTOR]~~; STAFF. (a) The commission shall employ an executive director who shall serve at the pleasure of the commission. The executive director ~~[He]~~ shall execute a bond payable to the state in such sum as the commission may deem necessary, to be approved by the commission and conditioned upon the faithful performance of the ~~[his]~~ duties of the office. Premiums for said bond also shall be payable from such appropriations for the commission as are authorized by the legislature. The executive director must have demonstrated executive and organizational ability.

(b) The executive director shall manage the affairs of the commission subject to and under the direction of the commission. All direction of the commission to the executive director shall be made at an open meeting of the commission and made a part of the minutes of the commission. A member of the commission may not grant any authority to the executive director or any other employee by power of attorney.

(c) The executive director shall employ two associate deputy directors, who shall administer the operation of the divisions of the commission as provided by this Act.

(d) The executive director may employ a staff necessary to administer the functions of the commission.

Sec. 2.08. REPORT. Not later than the 30th day after the date on which each regular session of the legislature begins, the commission shall report to the legislature concerning the activities of the commission during the preceding legislative interim and shall recommend any amendments to current law that would result in an increase in efficiency, economy, or productivity in the areas monitored by the commission.

Sec. 2.09. DIVISIONS. (a) The commission is divided into divisions as provided by this section. One associate deputy director shall direct the travel division, the energy efficiency division, and other divisions as directed by the executive director. The other associate deputy director shall direct the remaining divisions as directed by the executive director.

(b) Each division shall be managed by a division director who shall report to the appropriate associate deputy director.

SECTION 2. Subsection (b), Section 5.15, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) In accord with the provisions of Section 2.06 of this article, the executive director shall appoint a Director of Facilities ~~[Planning and]~~ Construction and Space Management, who shall be either a registered architect or a registered professional engineer and shall have proven administrative ability and experience in the fields of building design and construction.

SECTION 3. Subsection (e), Section 5.20, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) Upon notice and on itemized statements by the commission:  
(1) the comptroller shall transfer from each project appropriation to the State Building Construction Planning Fund created by Section 5.24 of this article an

amount certified by the commission as sufficient to reimburse the planning fund for prior expenditures on behalf of the project; and

(2) the comptroller shall reserve from each project appropriation an amount estimated by the commission to be sufficient to cover contingencies over and above all amounts obligated by contract or otherwise, for planning, engineering, and architectural work, site acquisition and development, and construction, equipment, and furnishings contracts. The amount so reserved shall be used only upon the following conditions:

(A) that the architect/engineer or the contractor recommend and justify the proposed contingency expenditures by submitting a change order request;

(B) that the proposed change order request be approved by the architect/engineer;

(C) that the proposed change order request be approved by the using agency which shall make formal request for the allocation of funds from the contingency reserve; and

(D) that the director of facilities ~~[planning and]~~ construction and space management shall investigate the nature of the change order and concur in the necessity of the proposed expenditure or refuse same within 15 days after receiving the request.

In the event the director shall refuse to concur in a proposed contingency expenditure, the using agency may appeal to the commission and the findings of the commission shall be final. The commission shall promulgate regulations setting forth the procedures for such appeals.

If an approved change order shall result in a reduction of construction cost, the contingency reserve shall be increased by the amount of such reduction.

SECTION 4. Subsection (b), Section 5.26, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The commission shall cause the uniform general conditions of state building construction contracts to be reviewed whenever in its opinion such review is desirable, but in no event less frequently than once every five years. The review shall be made by a committee appointed by the commission consisting of the director of facilities ~~[planning and]~~ construction and space management, who shall serve ex officio as chairman of the committee and who shall vote only in the event of a tie; two persons appointed by the commission from a list of nominees submitted to it by the President of the Texas Society of Architects; two persons appointed by the commission from a list of nominees submitted to it by the President of the Texas Society of Professional Engineers; and two persons appointed by the commission from a list of nominees submitted to it by the Chairman of the Executive Council of the Texas Associated General Contractors Chapters; and two persons appointed by the commission from the list of nominees submitted to it by the Executive Secretary of the Mechanical Contractors Associations of Texas, Incorporated. Members of any review committee appointed pursuant to this subsection shall serve without compensation but may be reimbursed for their necessary and actual expenses.

SECTION 5. Section 5.28, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.28. ENERGY CONSERVATION STANDARDS BY OTHER ENTITIES. (a) The boards of regents and boards or governing bodies of state agencies, commissions, and institutions exempted by Section 5.13 of this article shall adopt and publish energy conservation design standards as provided in Section 13.03 ~~[5-27]~~ of this article for all new buildings under their authority. The standards shall be consistent with those adopted ~~[promulgated]~~ by the commission for other state buildings and be prepared in cooperation and consultation with the energy

efficiency division of the commission [~~and the Governor's Energy Advisory Council~~].

(b) The energy efficiency division of the commission shall assist the boards and governing bodies of state agencies, commissions, and institutions subject to the provisions of Subsection (a) of this section with the preparation of energy conservation standards by providing technical assistance and advice.

SECTION 6. The State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) is amended by adding Articles 13 and 14 to read as follows:

**ARTICLE 13. ENERGY EFFICIENCY AND CONSERVATION**

Sec. 13.01. INFORMATION; RULES; PROGRAMS. The commission, through the energy efficiency division, shall develop and provide energy conservation information for the state and shall make rules relating to the adoption and implementation of energy conservation programs. The commission's adopted energy conservation rules shall include provisions relating to the retrofitting of energy-saving devices in existing state structures and to the renovation of such a structure. To the extent that the commission receives funds appropriated for energy efficiency programs, the commission, through the energy efficiency division, shall implement programs that the division identifies as encouraging energy conservation by state government. Unless funds are available for the implementation of such a program, a state agency is not required to spend funds for an energy conservation program under this article.

Sec. 13.02. LIAISON TO FEDERAL GOVERNMENT. The energy efficiency division shall serve as the state liaison to the federal government for the implementation and administration of federal programs relating to state agency energy conservation. In that capacity, the division shall administer any state programs established under:

(1) Part D, Title III, Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.);

(2) Part G, Title III, Energy Policy and Conservation Act (42 U.S.C. 6371 et seq.);

(3) the National Energy Extension Service Act (42 U.S.C. 7001 et seq.); or

(4) the Energy Research and Development Administration appropriation authorization (42 U.S.C. 5907a et seq.).

Sec. 13.03. DESIGN STANDARDS. (a) Through the energy efficiency division, the commission shall adopt and publish energy conservation design standards that all new state buildings, including buildings of state-supported institutions of higher education, are required to meet. The commission shall review and update the standards biennially.

(b) The standards must include performance and procedural standards for the maximum energy conservation allowed by the latest and most effective technology that is consistent with the requirements of public health and safety and with economic requirements.

(c) The standards must be adopted in terms of energy consumption allotments and must take into consideration the various classes of building uses. Performance standards must allow for design flexibility. Procedural standards must be directed toward specific design and building practices that produce good thermal resistance and low air leakage and toward requiring practices in the design of mechanical and electrical systems that conserve energy. The procedural standards must address, as applicable:

(1) insulation;

(2) appropriate lighting;

(3) ventilation;

(4) the potential use of new systems for saving energy in ventilation, climate control, and other areas; and



(5) any other item that the commission considers appropriate.

Sec. 13.04. ENERGY EFFICIENCY PROJECTS. Subject to applicable federal laws or guidelines, the commission, through the energy efficiency division, may implement energy efficiency projects at state agencies or may assist those agencies in implementing the projects through energy efficiency programs funded through federal matching grants or loans.

Sec. 13.05. OBTAINING MAINTENANCE DATA. To obtain current information on maintenance data, the commission shall obtain semiannually from each state agency information relating to the cost of heating, cooling, and maintaining buildings owned by the state.

Sec. 13.06. MODEL CODES. (a) After consultation with the Texas Department of Community Affairs, the commission shall prepare model energy conservation building codes.

(b) The commission shall provide the codes to municipalities for use in enacting or amending municipal ordinances.

Sec. 13.07. ADDITIONAL ENERGY MANAGEMENT SERVICES. Through the energy efficiency division, the commission may provide additional energy management services, including:

(1) training of designated state employees in energy management and energy-accounting techniques;

(2) technical assistance regarding energy efficient capital improvements, including cogeneration investments;

(3) technical assistance to the state auditor and to state agencies regarding monitoring of utility bills to detect billing errors;

(4) technical assistance to state agencies regarding third-party financing of energy efficient capital improvement projects; and

(5) assistance to state agencies relating to the purchase of natural gas, water, or electricity.

Sec. 13.08. ENERGY EFFICIENCY AUDITS. (a) The energy efficiency division shall conduct audits of state-owned buildings used by state agencies. The audits shall be designed to assist state agencies in reducing energy consumption and costs through improved energy efficiency.

(b) Based on the audit performed under Subsection (a) of this section, the commission may recommend changes to improve energy efficiency and shall estimate the costs of those changes and certify to the comptroller of public accounts the amount of estimated savings to be obtained through implementation of the recommended changes.

(c) A state agency may apply to the comptroller of public accounts for funds to implement the energy saving recommendations. As provided by Section 13.09 of this Act, the comptroller shall authorize a transfer of money from the energy efficiency revolving fund created under that section to the state agency to pay for the recommended changes.

(d) A state agency that does not apply for funds to implement a change recommended by the commission must file a written statement with the commission explaining its reasons for not applying for funds to implement the change.

Sec. 13.09. ENERGY SAVINGS LOAN PROGRAM; FUND. (a) The comptroller of public accounts shall administer the energy savings loan program created under this section.

(b) The comptroller of public accounts shall grant loans from the energy efficiency revolving fund created under this section to a state agency that applies for funds to implement energy saving recommendations made to the agency by the commission. Based on the estimated savings certified by the commission, the comptroller shall determine a payment schedule for the agency and may authorize

payments to be made from the revolving fund to the agency for the energy saving projects recommended by the commission. The agency must repay the amounts borrowed as provided by the payment schedule. Repayment shall include reasonable interest and reimbursement of the administrative costs incurred by the energy efficiency division of the commission in performing energy audits and administering the provisions of this article.

(c) The energy efficiency revolving fund is created as a special fund in the state treasury. The fund is composed of all sums transferred to that fund from the general revenue fund, interest earned on those sums, and amounts received in repayment of loans made under Subsection (b) of this section. The energy efficiency revolving fund shall be used to finance energy efficiency projects as provided by this section. The comptroller of public accounts shall administer the fund.

#### **ARTICLE 14. TRAVEL**

Sec. 14.01. **DIVISION.** The travel division of the commission is composed of the central travel office and the office of vehicle fleet maintenance. The commission shall adopt rules to implement this article.

Sec. 14.02. **CENTRAL TRAVEL OFFICE.** (a) The central travel office shall monitor travel reservations and other travel arrangements required for business travel by a state employee or state agency and shall provide travel-related services as delineated by this article. It is the intent of the legislature that state agencies use the services provided by the office to the maximum extent consistent with improved economy and efficiency. After approval by the executive director, the central travel office shall designate state agencies that may use the services of the office. The executive director shall approve the use of those services by the designated state agencies after the director of the travel division certifies to the executive director that the central travel office is capable of providing services.

(b) The central travel office shall initially provide services to designated agencies located in Travis County and shall extend its services to all state agencies as it develops the capability to do so. The office may negotiate contracts with private travel agents, with travel and transportation providers, and with credit card companies that provide travel services and other benefits to the state. Contracts entered into under this section are not subject to the competitive bidding requirements imposed under Article 3 of this Act. The comptroller of public accounts shall audit for compliance of rules adopted to enforce the provisions of this section.

Sec. 14.03. **VEHICLE FLEET MAINTENANCE.** (a) The office of vehicle fleet maintenance shall establish a vehicle-reporting system to assist each state agency in the management of its vehicle fleet. The office shall develop computerized data retrieval systems to implement the reporting system and shall maintain a complete inventory of agency vehicles by class of vehicles. The office shall determine the average cost of operation of the various classes of vehicles.

(b) Except as otherwise provided by this subsection, the office of vehicle fleet maintenance shall provide routine periodic maintenance service to agencies located in Travis County on a fee for service basis and shall negotiate contracts for major overhauls and other extensive mechanical work. Contracts entered under this section are not subject to the competitive bidding requirements imposed under Article 3 of this Act.

Sec. 14.04. **FEES.** Fees collected by the travel division under this article shall be deposited in the state treasury to the credit of the general revenue fund.

**SECTION 7.** (a) Sections 5.27, 5.29, and 5.30, and Subsection (b), Section 5.31, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), are repealed.

(b) Section 88, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is repealed.

SECTION 8. On the effective date of this Act, from certain funds on deposit in the state treasury received by the state as a result of the settlement agreement in In re: The Department of Energy Stripper Well Exemption Litigation, 578 F. Supp. 586 (D. Kan. 1983), concerning certain petroleum overcharges, the sum of \$30,000,000 is transferred to the energy efficiency revolving fund created under Section 13.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as added by this Act. For the state fiscal biennium beginning September 1, 1987, the money in the energy efficiency revolving fund is appropriated to the comptroller of public accounts for the administration of Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as added by this Act.

SECTION 9. (a) This Act takes effect September 1, 1987.

(b) All data, records, other personal property, and necessary personnel belonging or assigned to the energy efficiency division of the Public Utility Commission are transferred to the State Purchasing and General Services Commission on the effective date of this Act.

(c) The central travel office of the travel division of the State Purchasing and General Services Commission shall extend its services to all state agencies not later than August 31, 1991.

(d) The division of facilities planning and construction shall be designated the division of facilities construction and space management on the effective date of this Act.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

**Floor Amendment No. 1 - C. Evans**

Amend C.S.S.B. 115 on page 12, by adding a new Sec. 14.05 to read as follows:

Sec. 14.05. CERTAIN AGENCIES. Institutions of higher education located in Travis County shall be included in the Travel provisions of this Article only to the extent that the provisions of this Article become of statewide applicability.

**Floor Amendment No. 2 - C. Evans**

Amend C.S.S.B. 115 as follows:

At line 15, page 13, insert the following as new SECTION 9, and renumber the present SECTION 9 and remaining SECTIONS accordingly:

SECTION 9. The Economic Input/Output Model operated by the Texas Water Development Board is hereby transferred to the Office of the Comptroller of Public Accounts on the effective date of this act.

**Floor Amendment No. 3 - Eckels**

Amend C.S.S.B. 115 by adding a new appropriately numbered section to read as follows and by renumbering the subsequent sections accordingly:

SECTION 6. (a) In this section:

(1) "Energy-saving device or measure" means a device or measure that directly reduces the energy consumption of a lighting, heating, ventilating, or air conditioning system, or of other equipment that uses electricity, water, natural gas, fuel oil, or any other energy source.

(2) "Meter" means an apparatus for automatically measuring and recording the amount of energy used by a device or measure.

(3) "State agency" means a board, commission, department, institution, office, or other agency of the state government, including an institution of higher education as defined by Section 61.003, Education Code.

(b) In order to encourage conservation of energy and to promote more efficient use of the state's funds, a state agency may contract for the lease or purchase of energy-saving devices or measures as provided by this section. To be eligible for lease or purchase under this section, a device or measure must use energy in a manner that is subject to monitoring through a meter. The State Purchasing and General Services Commission may make recommendations to state agencies relating to energy-saving devices or measures that are eligible for lease or purchase under this section. A state agency that wishes to lease or purchase energy-saving devices or measures under this section must enter into a contract for the lease or purchase with a term of not more than 15 years. The contract must provide for the lease or purchase price not to exceed the amount realized, during the term of the contract, by the agency in savings attributable to the energy-saving devices or measures.

(c) A state agency that saves any amounts appropriated to the agency as a result of the use of energy-saving devices or measures may spend the amounts, in addition to the purposes for which the money was appropriated, for the lease or purchase of additional energy-saving devices or measures or for debt service, lease payments, or the payment of service fees related to those devices or measures.

(d) A contract entered into under Subsection (b) of this section must provide that if the use of an energy-saving device or measure results in a negative cash flow to the state agency, as defined in the contract, or in increased state agency utility costs that are directly attributable to the use of the device or measure, the state agency may require the contractor to reimburse the state for the negative cash flow or increased utility costs.

(e) This section takes effect September 1, 1987, and applies only to a contract for the lease or purchase of an energy-saving device or measure entered into by a state agency on or after that date.

#### Floor Amendment No. 4 - Ceverha

Amend C.S.S.B. 115 by deleting Section 8, lines 2-14, on page 13 of the bill.

#### Floor Amendment No. 1 on Third Reading - Eckels

Amend C.S.S.B. 115 as follows:

(1) Strike second reading House Amendment No. 3.

(2) On page 11, between lines 3 and 4, insert the following:

Sec. 13.10. ENERGY-SAVINGS DEVICES OR MEASURES. A state agency that reduces its energy expenses through the use of energy-savings devices or measures recommended by the energy efficiency division during an audit conducted under Section 13.08 of this Act may use any funds saved by the agency from appropriated utility expense funds for the installment purchase of the energy-saving devices or measures. The amount of funds spent on the energy-saving devices or measures may not exceed an amount equal to the reduction in the state agency's utility expenses attributable to the use of the energy-savings device or measure. For purposes of this section, "energy-savings device or measure" means a device or measure that directly reduces the energy consumption of a lighting, heating ventilating, or air conditioning system, or of other equipment that uses electricity, water, natural gas, fuel oil, or any other energy source.

The amendments were read.

Senator Leedom moved to concur in House amendments.

The motion prevailed viva voce vote.

**RECORD OF VOTE**

Senator Barrientos asked to be recorded as voting "Nay" on the motion to concur in House amendments.

**CONFERENCE COMMITTEE ON HOUSE BILL 1459**

Senator Montford called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1459** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1459** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Montford, Chairman; Santiesteban, Henderson, Sims and Brown.

**CONFERENCE COMMITTEE REPORT  
HOUSE BILL 923**

Senator Harris submitted the following Conference Committee Report:

Austin, Texas  
May 30, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 923** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS

SIMS

HENDERSON

BLAKE

ARMBRISTER

On the part of the Senate

C. EVANS

GAVIN

SHEA

CARTER

GUERRERO

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**MOTION TO ADJOURN**

On motion of Senator Brooks and by unanimous consent, the Senate agreed to stand At Ease to await the receipt of Messages from the House and the reading and filing of Conference Committee Reports.

The Senate further agreed to adjourn, upon the completion of these administrative duties, until 9:30 a.m. tomorrow.

**AT EASE**

The President at 4:04 p.m. announced the Senate would stand At Ease Subject to the Call of the Chair.

**IN LEGISLATIVE SESSION**

The President at 4:25 p.m. called the Senate to order as In Legislative Session.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 31, 1987

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House refused to concur in Senate amendments to **H.B. 1514** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Pennington, Chairman; Taylor, Staniswallis, Waldrop and Willy.

The House refused to concur in Senate amendments to **H.B. 1829** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: McDonald, McKinney, J. Harris, Glossbrenner and McWilliams.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.J.R. 12**: Berlanga, Chairman; Ovard, Warner, Cavazos and R. Cuellar.

Respectfully,  
BETTY MURRAY, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT  
HOUSE BILL 650**

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas  
May 31, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 650** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

CAPERTON  
SIMS  
URIBE  
ZAFFIRINI

On the part of the Senate

KUBIAK  
SMITHEE  
CAMPBELL  
PATTERSON  
CARTER

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### AT EASE

The President at 4:27 p.m. announced the Senate would stand At Ease Subject to the Call of the Chair.

#### IN LEGISLATIVE SESSION

The President called the Senate to order as In Legislative Session at 4:43 p.m.

#### BILLS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills:

H.B. 2014

H.B. 2030

H.B. 2045

H.B. 2051

H.B. 2090

H.B. 2143

#### CONFERENCE COMMITTEE REPORT SENATE JOINT RESOLUTION 12

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas  
May 30, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.J.R. 12 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

McFARLAND  
PARKER  
MONTFORD  
ANDERSON  
GLASGOW

On the part of the Senate

BERLANGA  
CAVAZOS  
CUELLAR  
WARNER  
PEREZ

On the part of the House

#### SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the exemption from ad valorem taxation certain tangible personal property located in the state.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VIII, Section 1, of the Texas Constitution is amended to read as follows:

Sec. 1. (a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for the production of income. ~~The, and the~~ Legislature by general law may exempt from ad valorem taxation:

(1) all or part of the personal property homestead of a family or single adult, "personal property homestead" meaning that personal property exempt by law from forced sale for debt, ~~from ad valorem taxation~~; and

(2) subject to Subsection (e) of this section, all other tangible personal property, except structures which are personal property and are used or occupied as residential dwellings and except property held or used for the production of income.

(e) The governing body of a political subdivision may provide for the taxation of all property exempt under a law adopted under Subsection (d)(2) of this section and not exempt from ad valorem taxation by any other law.

(f) To promote economic development in the State, tangible personal property consisting of goods, wares, merchandise or ores, other than oil, gas, and other petroleum products, is exempt from ad valorem taxation if:

(1) the property is transported from outside this State into this State to be forwarded outside this State, whether or not the intention to forward the property outside this State was formed, or the destination outside this State to which the property is forwarded was specified when the transportation of the property into this State began;

(2) the property is detained in this State for assembling, storing, manufacturing, processing or fabrication purposes; and

(3) the property is not located or retained in this State for more than 175 days.

(g) Tangible personal property exempted from taxation in subsection (f) of this section is subject to the following:

(1) A county, school district or municipality, including a home-rule city, may tax such property, located in such political subdivision, if the governing body of such named political subdivision takes official action to provide for the taxation of all or a stated percentage of the appraised value of such property.

(2) The above official action to tax all or a percentage of the appraised value of such property must be taken by the governing body of such above named political subdivisions either before January 1, 1988, or before April 1, 1988. If such official action is taken before January 1, 1988, it shall be effective for the tax year 1988. However, if such official action is taken prior to April 1, 1988, but after January 1, 1988, the official action shall not become effective until January 1, 1989.

(3) If official action is taken to tax a stated percentage of the appraised value of such property, subject to this subsection, such property shall not thereafter be taxed by any above named political subdivisions at a higher percentage of the appraised value than was set in such official action. However, any such named political subdivisions may reduce such stated percentage of appraised value thereafter by official action.

(4) Any of the above named political subdivisions shall have the authority to exempt from the payment of taxation on such property located in such above named political subdivisions for the taxing year 1987.



(5) Any official action to tax such property may be rescinded by official action of any of such above named political subdivisions. In that event, such property located in such rescinding county, school district, or municipality shall be exempt from taxation in such above named political subdivision in each tax year beginning thereafter, and, if the governing body of such above named political subdivision so provides, in the tax year of such action.

(h) The occupation tax levied by any county, city or town for any year on persons or corporations pursuing any profession or business, shall not exceed one half of the tax levied by the State for the same period on such profession or business.

SECTION 2. (a) The proposed constitutional amendments to Article VIII, Section 1, Subsections (d) and (e) shall be submitted to the voters in a separate ballot at an election to be held on November 3, 1987. This ballot shall be printed to provide for voting for or against the proposition: "The Constitutional Amendment to allow the Legislature to exempt from ad valorem taxation certain personal property not held or used for the production of income".

(b) The proposed constitutional amendment contained in Article VIII, Section 1, Subsections (a), (b), (c), (f), (g), and (h) shall be submitted to the voters in a separate ballot at an election to be held on November 3, 1987. This ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing for the exemption from ad valorem taxation of certain property that is located in the state for only a temporary period of time".

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### CONFERENCE COMMITTEE REPORT HOUSE BILL 2597

Senator Henderson submitted the following Conference Committee Report:

Austin, Texas  
May 31, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 2597 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

HENDERSON  
WASHINGTON  
BROWN  
WHITMIRE  
GREEN

On the part of the Senate

COLBERT  
R. CUELLAR  
SUTTON  
CULBERSON

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 245**

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas  
May 30, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 245 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

McFARLAND  
FARABEE  
CAPERTON  
MONTFORD  
EDWARDS  
On the part of the Senate

GRANOFF  
HIGHTOWER  
TALLAS  
HACKNEY  
C. JOHNSON  
On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the operations and continuation of the Texas Board of Corrections, to the manner in which defendants are sentenced, confined, and released from confinement, and to limitations of personal actions by inmates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927 (Article 6166a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. It shall be the policy of this State, in the operation and management of the Texas Department of Corrections [~~Prison System~~], to so manage and conduct the same in that manner as will be consistent with the operation of a modern prison system, and with the view of making the department [~~System~~] self-sustaining; and that those convicted of violating the law and sentenced to a term in the department [~~State Penitentiary~~] shall have humane treatment, and be given opportunity, encouragement and training in the matter of reformation. [~~All prisoners shall be worked within the prison walls and upon farms owned or leased by the State; and in no event shall the labor of a prisoner be sold to any contractor or lessee to work on farms, or elsewhere; nor shall any prisoner be worked on any farm or otherwise, upon shares, except such farm be owned or leased by the State of Texas.~~]

SECTION 2. Title 108, Revised Statutes, is amended by adding Article 6166a-2 to read as follows:

Art. 6166a-2. CONTRACTS FOR INMATE LABOR. (a) In this article, "state agency" has the meaning assigned the term "agency" by Section 2, The Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes), and "local government" has the meaning assigned that term by Section 3(1), The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes).

(b) The Texas Department of Corrections is directed to seek contracts with state agencies and local governments to provide inmate labor to those agencies and governments.

(c) The department may not enter a contract with a state agency under this article unless the contract is in conformity with The Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes) and may not enter into a contract with a local government under this article unless the contract is in conformity with The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes). A contract entered into under this article may provide that the department be reimbursed for expenses incurred by the department in providing inmate labor to the state agency or local government.

SECTION 3. Section 3a, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927, (Article 6166b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3a. APPLICATION OF SUNSET ACT. The Texas Board of Corrections is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the board is abolished September 1, 1999 ~~[1987]~~.

SECTION 4. Section 5, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927 (Article 6166d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. MEETINGS. (a) The Texas [Prison] Board of Corrections shall hold a regular meeting on the second Monday in January, March, May, July, September and November of each year for the transaction of any and all official business. Special meetings of said Board may be called by the Chairman, and upon the petition of a majority of the [five] members special meetings of said Board shall be called. Each member of the Board shall be given notice of special meetings and of the purpose thereof, and unless such notice has been given no official business shall be transacted at any special meeting. A majority of the [Six] members of the Board shall constitute a quorum for the transaction of business at any meeting of the Board.

(b) As a specific exception to the provisions of the Texas Open Meetings Act (Article 6252-17) the board is authorized to hold open or executive meetings on an emergency basis by telephone conference call. Each part of an open meeting that is held by a conference call must be available to be heard by the public at one or more places that the Board shall designate. Such meetings held by telephone conference call shall be recorded and available to the public.

SECTION 5. Section 6, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927 (Article 6166e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. ORGANIZATION. At the beginning of a Governor's term, the Governor shall designate one member of the Board as Chairman. That member shall serve in the capacity of Chairman at the pleasure of the Governor. The Board shall elect a Vice-chairman [The Board shall organize by the election of a Chairman and a Vice-chairman] from among its members, and shall provide for the appointment of such committees as may be expedient to the accomplishment of the duties of said Board. The Board shall have authority to employ such clerical assistance as may be necessary for the discharge of its duties.

SECTION 6. Section 7, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927, (Article 6166f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. BOARD MEMBERSHIP; REMOVAL. (a) Members of the Texas Board of Corrections must be representative of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;

(2) owns, or controls directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the department or receiving funds from the department; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for Board membership, attendance, or expenses.

(b) An employee, officer, or paid consultant of a trade association in the field of criminal justice may not be a member or employee of the Board. A person who is the spouse of any officer, employee, or paid consultant of a trade association in the field of criminal justice may not be a member of the Board and may not be an employee, including an employee exempt from the state's classification plan, who is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. For the purposes of this section, a trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the Board, may not serve as a member of the Board or act as the general counsel to the Board.

(d) Appointments to the Board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

(e) It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of this section for appointment to the Board;

(2) does not maintain during the member's service on the Board the qualifications required by Subsection (a) of this section for appointment to the Board;

(3) violates a prohibition established by Subsections (b) and (c) of this section;

(4) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled Board meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the Board.

(f) The validity of an action of the Board is not affected by the fact that it was taken when a ground for removal of a member of the Board existed.

(g) If the director of the Texas Department of Corrections has knowledge that a potential ground for removal exists, the director shall notify the Chairman of the Board of the ground. The Chairman of the Board shall then notify the Governor that a potential ground for removal exists. (If any member of the Board shall be guilty of malfeasance, misfeasance or non-feasance in office, or shall become incapable or unfit to discharge his official duties or shall willfully fail, refuse or neglect the discharge of the duties of his office, such member may be removed from office in either of the following ways:

[(1) By the Governor in the manner provided by law;

[(2) By suit brought by the Attorney General in the name of the State on his own motion or at the direction of the Governor on the relation of the Governor, in the District Court of Travis County or in the District Court of the county of residence of such member. The Attorney General shall bring such suit when directed by the Governor to do so, provided the Governor accompanies such direction with charges and evidence showing that the member is subject to removal as provided herein. Upon the application of the Attorney General in the name of the State of Texas, the District Judge before whom such suit is pending may

immediately suspend the member from office, and such order of suspension shall be effective until set aside by the Court on motion. If the judgment of the Court be one of removal from office, the member shall be forthwith suspended from office pending any appeal of the case. When the member is so suspended, the District Judge at the time of making such order of suspension, shall appoint for the duration of such suspension some other qualified person to perform the duties of the suspended member, and such appointee shall receive the same compensation as a member of the Board. The suit shall be a civil action, to be tried as other civil cases, with the right of appeal and review as in other cases. The Court shall have authority to issue all necessary writs to enforce its judgment or order of suspension and to protect its jurisdiction over each case. Such suit shall have precedence over all other cases in the appellate courts.]

SECTION 7. Section 1, Article 6166g-2, Revised Statutes, is amended by adding Subsection (e) to read as follows:

(e) The Texas Board of Corrections shall give priority to entering contracts under this article that will provide the Texas Department of Corrections with secure regionally-based correctional facilities designed to successfully reintegrate inmates into society through preparole, prerelease, work release, and prison industries programs.

SECTION 8. Title 108, Revised Statutes, is amended by adding Article 6166g-3 to read as follows:

Art. 6166g-3. ACQUISITION OF REAL PROPERTY. The Texas Board of Corrections may acquire real property through purchase, subject to specific appropriative authority in the General Appropriations Act, or through the acceptance of a gift, grant, or donation for a prison site.

SECTION 9. Title 108, Revised Statutes, is amended by adding Article 6166g-4 to read as follows:

Art. 6166g-4. LEASE-PURCHASE AND INSTALLMENT CONTRACTS.

Sec. 1. The Texas Board of Corrections may contract with the Commissioners Courts of counties to utilize, lease-purchase, purchase on an installment contract, or otherwise acquire secure correctional facilities, financed and constructed under authorization of the county, subject to specific appropriative authority in the General Appropriations Act, and managed by the Texas Department of Corrections.

Sec. 2. Any lease-purchase, installment contract, or similar agreement entered into by the Texas Board of Corrections is subject to review by the attorney general, as provided for by H.B. 2514, Acts of the 70th Legislature, Regular Session, 1987, and to review and approval by the Bond Review Board, as provided for by S.B. 1027, Acts of the 70th Legislature, Regular Session, 1987, notwithstanding the amount or the length of term of the lease-purchase agreement.

SECTION 10. Title 108, Revised Statutes, is amended by adding Article 6166j-1 to read as follows:

Art. 6166j-1. GENERAL ADMINISTRATIVE PROVISIONS. (a) The Texas Board of Corrections shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year. The form of the annual report and the reporting time are as provided in the General Appropriations Act.

(b) The director of the Texas Department of Corrections shall develop an intra-agency career ladder program, one part of which shall require the intra-agency posting, concurrently with any public posting, of all nonentry level positions.

(c) The director shall develop a system under which the job performance of employees is evaluated annually. All merit pay for department employees must be based on the system established under this article.

(d) The state auditor at least once during each biennium shall audit the financial transactions of the department and shall include in the audit report a review of the department's employment practices to ensure that they conform with state law and department policies regarding nepotism.

(e) The department shall prepare information of public interest describing the functions of the department and describing the procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the general public and appropriate state agencies.

(f) The department shall establish methods by which interested parties are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department.

(g) The department shall keep an information file about each complaint filed with the department by a member of the general public that relates to the operations of the department.

(h) If a written complaint is filed with the department by a member of the general public that relates to the operations of the department, the department, at least as frequently as quarterly and until final disposition of the complaint, shall notify the complainant of the status of the complaint unless the notice would jeopardize an undercover investigation.

(i) The director shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity by which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the department's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underutilization in the department's work force of all persons of whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address areas of significant underutilization in the department's work force of all persons of whom federal or state guidelines encourage a more equitable balance.

(j) The policy statement shall be filed with the governor's office, cover a one-year period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature.

(k) The board shall inform its members and employees as often as is necessary of:

(1) the qualifications for office or employment prescribed by this article; and

(2) their responsibilities under applicable law relating to standards of conduct for state officers or employees.

(l) The board shall adopt policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(m) The board shall adopt policies that clearly define the respective responsibilities of the board and the staff of the department.

SECTION 11. Title 108, Revised Statutes, is amended by adding Article 6166j-2 to read as follows:

Art. 6166j-2. OFFICE OF INTERNAL AUDITS. (a) The Texas Board of Corrections shall create within the Texas Department of Corrections an office of

internal audits. The board shall employ a person to serve as chief of the office of internal audits based on recommendations from the director of the department regarding qualified candidates for the position. The chief of the office of internal audits may be terminated from employment only with the approval of the board.

(b) The office of internal audits shall:

(1) conduct recurring financial and management audits;

(2) conduct internal audits to evaluate department programs and the economy and efficiency of those programs; and

(3) recommend improvements in management and programs on the basis of evaluations made under this subsection.

(c) The chief of the office of internal audits shall forward reports, audits, evaluations, and recommendations to the director of the department. The chief shall report directly to the board not less than once a year:

(1) on the activities of his office; and

(2) on the response of the department to recommendations made by the office.

(d) The chief of the office of internal audits shall report directly to the board on other matters and at times as directed by rule of the board.

SECTION 12. Subsection (b), Section 28, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927 (Article 6166z1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The amount of money which a convict is entitled to receive from the State of Texas when he is discharged from the State penitentiary or released from the State penitentiary on parole, mandatory supervision, or conditional pardon shall be \$200. Except as otherwise provided by this subsection, the Texas Department of Corrections shall give the convict \$100 of that amount on discharge. A parole officer to whom the convict is required to report by the Board of Pardons and Paroles shall give the convict the remaining \$100 if the convict reports to the officer within the time specified by the board. If a convict is released and is not required by the board to report to a parole officer or is authorized by the board to report to a location outside this state, the department shall give the convict \$200 on discharge.

SECTION 13. Section 2, Article 6181-1, Revised Statutes, is amended to read as follows:

Sec. 2. (a) The department shall classify all inmates as soon as practicable upon their arrival at the department and, subject to the requirements of Subsection (b) of this section, shall reclassify inmates as circumstances may warrant. All inmates shall be classified according to their conduct, obedience, industry, and prior criminal history. The director shall maintain a record on each inmate showing all classifications and reclassifications with dates and reasons therefor.

(b) At least annually, the board shall review the department's rules and policies relating to the classification of inmates. The board shall consider in its review whether inmate overcrowding in the department has decreased and whether it is necessary for purposes of decreasing overcrowding to classify prisoners according to the provisions of Subsection (a) of this section. If the board determines that overcrowding in the department has decreased and it is not necessary to classify prisoners according to the provisions of Subsection (a) of this section, the board shall direct the department to classify inmates according to the provisions of Subsection (c) of this section.

(c) On the direction of the board, the department shall classify each inmate on his arrival at the department in a time-earning category that does not allow the inmate to earn more than 20 days' good conduct time for each 30 days actually served. The department may not reclassify an inmate to a higher time-earning classification unless the inmate has served 90 or more days at the classification immediately lower than the classification to which he is to be reclassified.

SECTION 14. Sections 3(a) and (d), Article 6181-1, Revised Statutes, are amended to read as follows:

(a) Inmates shall accrue good conduct time based upon their classification as follows:

(1) 20 days for each 30 days actually served while the inmate is classified as a Class I inmate;

(2) 10 days for each 30 days actually served while the inmate is classified as a Class II inmate; and

(3) not more [less] than 10 [not more than 25] additional days, as determined by the director, for each 30 days actually served if the inmate is a trusty.

(d) An inmate shall accrue good conduct time, in an amount determined by the director which shall not exceed 15 days for each 30 days actually served, for diligent participation in an agricultural industrial program or other work program or for participation in an agricultural, educational, or vocational program provided to inmates by the department. For the purposes of this subsection, the term "participation in an educational program" includes the participation of the inmate as a tutor or a pupil in a literacy program authorized by Section 1, Chapter 619, Acts of the 47th Legislature, Regular Session, 1941 (Article 6203b-1, Vernon's Texas Civil Statutes). The department may not award good conduct time under this subsection for participation in a literacy program unless the department determines that the inmate participated in good faith and with diligence as a tutor or pupil.

SECTION 15. Section 4, Article 6181-1, Revised Statutes, is amended to read as follows:

Sec. 4. Good conduct time applies only to eligibility for parole or mandatory supervision as provided in Section 8, Article 42.18 [~~Section 15, Article 42.12~~], Code of Criminal Procedure, [~~1965, as amended~~], and shall not otherwise affect the inmate's term. Good conduct time is a privilege and not a right. The classification of the inmate notwithstanding, the director may grant good conduct time to an inmate only if the director finds that the inmate is actively engaged in an agricultural, vocational, or educational endeavor, or in an industrial program or other work program, unless the director finds that the inmate is not capable of participating in such an endeavor. If [Consequently, if] during the actual term of imprisonment in the department, an inmate commits an offense or violates a rule of the department, all or any part of his accrued good conduct time may be forfeited by the director. The director may, however, in his discretion, restore good conduct time forfeited under such circumstances subject to rules and policies to be promulgated by the department. Upon revocation of parole or mandatory supervision, the inmate loses all good conduct time previously accrued, but upon return to the department may accrue new good conduct time for subsequent time served in the department. The director may, however, restore good conduct time forfeited upon revocations not involving new criminal convictions after an inmate has served a reasonable period of good behavior in the department, to be no less than three months, subject to rules and policies promulgated by the department. Within 60 days after the inmate's return to the department, the Board of Pardons and Paroles shall notify the director of the grounds for revocation. At least annually, the Board of Corrections shall review the department's rules and policies relating to restoration of good conduct time that has been forfeited and in awarding additional good conduct time retroactively to inmates who have been reclassified. The board shall consider in its review whether the inmate overcrowding in the department has decreased and whether it is necessary for purposes of decreasing overcrowding to restore good conduct time or award additional good conduct time retroactively to inmates who have been reclassified. If the board determines that overcrowding has decreased and it is not necessary to restore good conduct time or award additional good conduct time, it shall direct the department to discontinue those practices.



SECTION 16. Section 1, Article 6184n, Revised Statutes, is amended to read as follows:

Art. 6184n. MEDICAL, MENTAL HEALTH, AND MENTAL RETARDATION FURLOUGHS. (a) The Texas Department of Corrections may grant a medical furlough to any inmate serving a term of imprisonment in the department for the purpose of obtaining medical treatment, diagnosis, or medical study, and under such security conditions as the department may deem necessary and proper.

(b) The department may grant mental health or mental retardation furloughs for inmates of the department to be transferred to facilities of the Texas Department of Mental Health and Mental Retardation, for purposes of treatment and supervision.

SECTION 17. Subsection (a), Section 2, Article 6184n, Revised Statutes, is amended to read as follows:

(a) The Texas Department of Corrections may grant temporary furloughs of not more than seven [five] days to inmates who are considered acceptable security risks by the department to attend funerals, to visit critically ill relatives, or for any other reason that the department determines is appropriate. It is the intent of the Legislature that the Department of Corrections institute and continue policies that will allow inmate furloughs. The policies shall clearly state that furloughs are to be determined by the department and not in regards to the region or county or the state to which the prisoner is to be furloughed.

SECTION 18. Title 108, Revised Statutes, is amended by adding Article 6184q to read as follows:

Art. 6184q. MISCELLANEOUS CLAIMS. The Texas Department of Corrections may pay from the miscellaneous funds appropriated to the department claims made by inmates for property lost or damaged by the department. The department shall maintain a record of all transactions made under this article and shall send a copy of that record to the state auditor at least annually. The record must show the amount of each claim paid, the identity of each claimant, and the purpose for which each claim was made. The department may not pay under this article more than \$500 on a claim.

SECTION 19. Title 108, Revised Statutes, is amended by adding Article 6184r to read as follows:

Art. 6184r. EXHAUSTION OF ADMINISTRATIVE REMEDIES. The Texas Department of Corrections shall develop and maintain a system for the resolution of inmate grievances that qualifies for certification under 42 U.S.C. Section 1997e and shall obtain certification under that section.

SECTION 20. Title 108, Revised Statutes, is amended by adding Article 6184s to read as follows:

Art. 6184s. COST OF CONFINEMENT AS CLAIM. (a) The Texas Department of Corrections may establish a claim and lien against the estate of an inmate who dies while confined in the department for the cost to the department of the inmate's confinement.

(b) The department may not enforce a claim or lien established under this article if the inmate has a surviving spouse or a surviving dependent or disabled child.

(c) The department shall adopt rules regarding recovery of the cost of confinement through enforcement of claims or liens established under this article. The Criminal Justice Policy Council shall monitor the activity of the department in establishing and enforcing claims or liens under this article. If the council determines that the benefits obtained by the department do not exceed the costs to the department of establishing and enforcing claims or liens, the council shall direct the department to discontinue establishing claims and liens under this article.

SECTION 21. Title 108, Revised Statutes, is amended by adding Article 6184t to read as follows:

Art. 6184t. VALIDATION OF ACTIONS AND TAX EXEMPTION. (a) All resolutions, orders, agreements, contracts, undertakings and other acts or attempted acts of the Texas Board of Corrections, Texas Department of Corrections and State Purchasing and General Services Commission and by the agents, attorneys or officers thereof related to the following are hereby legalized, approved and validated in all respects:

(1) the financing and construction of the correctional facility known as the Mark W. Michael Unit of the Coffield Prison Farm located in Anderson County on land owned by the State of Texas for the use and benefit of the Texas Department of Corrections, which land has been the subject of a lease granted by the Texas Board of Corrections and a sublease arrangement entered into by the Texas Department of Corrections and the State Purchasing and General Services Commission; and

(2) the financing and construction of trusty camp facilities in the Counties of Anderson, Brazoria, Coryell, Houston, Madison and Walker, on parcels of land located in such counties and owned by the State of Texas for the use and benefit of the Texas Department of Corrections, which parcels have been the subject of a lease granted by the Texas Board of Corrections and a sublease arrangement entered into by the Texas Department of Corrections and the State Purchasing and General Services Commission.

(b) The property associated with the facilities described in (a) hereof shall be exempt from taxation, provided that such property is used exclusively in the performance of the duties and functions of the Texas Department of Corrections.

SECTION 22. Sections 1 and 2, Chapter 619, Acts of the 47th Legislature, Regular Session, 1941 (Article 6203b-1, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 1. (a) The Texas Department of Corrections [Prison Board] shall cause all illiterates to receive instruction the equal of not less than five (5) nor more than eight (8) hours per week.

(b) The Texas Department of Corrections shall establish a program to teach reading to functionally illiterate inmates. The department shall allow inmates who are capable of serving as tutors to tutor functionally illiterate inmates and shall actively encourage volunteer organizations to aid in the tutoring of inmates. The department, the inmate to be tutored, and the person who tutors the inmate jointly shall establish reading goals for the inmate to be tutored. A person who acts as a tutor may only function as a teacher and advisor to an inmate and may not exercise supervisory authority or control over the inmate [and all other prisoners may, at their option, receive academic or vocational instruction at such hours. The hours fixed for such instruction shall be other than those now fixed by law for labor. Nothing herein contained shall prevent the literate prisoners from enrolling in academic instruction or special occupational or vocational instruction as now provided for by the Texas Prison Board].

Sec. 2. The Texas Department of Corrections shall identify functionally illiterate inmates and shall inform the Board of Pardons and Paroles if it determines that an inmate who is to be released to the supervision of the board is in need of continuing education after release from the department. [Each prisoner attending such instruction in good faith shall be allowed as a credit on the term of his sentence one hour additional for each hour in attendance of school classes.]

SECTION 23. Chapter 520, Acts of the 65th Legislature, Regular Session, 1977 (Article 6203c-2, Vernon's Texas Civil Statutes), is amended by adding Sections 4A and 4B to read as follows:

Sec. 4A. The Texas Department of Corrections shall establish and maintain an overnight holding facility for inmate outpatients at The University of Texas Medical Branch at Galveston.

Sec. 4B. The Texas Department of Corrections and The University of Texas Medical Branch at Galveston shall adopt a memorandum of understanding that establishes the responsibilities of the department and the medical branch in maintaining the department's hospital facility, providing security, and providing medical care. The memorandum must also establish a joint peer review committee and a joint utilization review committee. Each committee shall be composed of medical personnel employed by the department and by the medical branch. The joint peer review committee shall review all case files to determine whether the quality of medical care provided is adequate, according to accepted medical standards. The joint utilization review committee shall review all case files to determine whether treatment given is medically necessary under the circumstances of each case, taking into account accepted medical standards. The department shall coordinate the development of the memorandum of understanding. The department and the medical branch shall by rule adopt the memorandum.

SECTION 24. Sections 5(a) and (c), Article 6203c-3, Revised Statutes, are amended to read as follows:

(a) The director shall use inmate labor in the prison industries program to the greatest extent feasible and shall develop and expand the prison industries program by pursuing arrangements with business and industry for the use of inmate labor.

(c) The board may develop and administer an incentive pay scale for prisoners incarcerated in the Texas Department of Corrections who participate in the prison industries program. The program may be financed through contributions donated for this purpose by private business enterprises or by private industries contracting with the Texas Department of Corrections. The department shall apportion pay earned by an inmate under this article to the following persons and entities, in amounts determined at the discretion of the department:

(1) persons to whom the inmate has been ordered by a court to pay restitution;

(2) the inmate's family and dependents;

(3) the state, as reimbursement for the cost of the inmate's confinement;

(4) the compensation to victims of crime fund, created by Section 14, Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes); and

(5) the inmate's trust fund.

SECTION 25. Title 108, Revised Statutes, is amended by adding Article 6203c-4 to read as follows:

Art. 6203c-4. JOB-TRAINING PROGRAMS. The Texas Department of Corrections and the Board of Pardons and Paroles shall adopt a memorandum of understanding that establishes the respective responsibility of the department to implement job-training programs for inmates and of the board to monitor the success of those programs. The memorandum must establish a method by which the board provides the department with information relating to the employment histories of inmates released from the department on parole and mandatory supervision. The department shall coordinate the development of the memorandum of understanding. The department and the board by rule shall adopt the memorandum.

SECTION 26. Title 108, Revised Statutes, is amended by adding Article 6203c-5 to read as follows:

Art. 6203c-5. COMPENSATION OF PSYCHIATRISTS. Compensation paid by the Texas Department of Corrections to psychiatrists employed by the Texas Department of Corrections should be comparable to compensation authorized for the Texas Department of Mental Health and Mental Retardation to pay to psychiatrists employed by the Texas Department of Mental Health and Mental Retardation.

SECTION 27. Title 108, Revised Statutes, is amended by adding Article 6203c-6 to read as follows:

Art. 6203c-6. MEDICAL RESIDENCIES. The Texas Department of Corrections may establish a residency program or a rotation program to employ or train physicians to treat inmates in the department.

SECTION 28. Title 108, Revised Statutes, is amended by adding Article 6203c-7 to read as follows:

Art. 6203c-7. CONTRACTS FOR DIAGNOSTIC AND EVALUATION SERVICES. (a) The Texas Department of Corrections shall request proposals and may award one contract to a private vendor or adult probation department to screen and diagnose, either before or after adjudications of guilt, persons who may be transferred to the department. The contract entered into under this section may not have a duration of more than two years. The department shall award a contract under this article if the department determines that:

(1) the party proposing to enter into the contract can provide psychiatric, psychological, or social evaluations of persons who are to be transferred to the department;

(2) the services provided will reduce the chances of misdiagnosis of mentally ill and mentally retarded persons who are to be transferred to the department, expedite the diagnostic process, and offer savings to the department;

(3) the quality of services offered equals or exceeds the quality of the same services provided by the department; and

(4) the state will assume no additional liability by entering into a contract for the services.

(b) If the department enters into a contract under this article and during or at the end of the contract period determines that the diagnostic services performed under the contract are of a sufficient quality and are cost effective, the department shall submit requests for additional proposals for contracts and award one or more contracts in the same manner as provided by Subsection (a) of this article.

SECTION 29. Title 108, Revised Statutes, is amended by adding Article 6203c-8 to read as follows:

Art. 6203c-8. CIVIL COMMITMENT PRIOR TO PAROLE. (a) The Texas Department of Corrections and the Board of Pardons and Paroles shall establish a system to identify mentally ill inmates who are nearing eligibility for release on parole.

(b) The department shall provide the board with the names of inmates determined by the department to be mentally ill. Not later than the 30th day before the initial parole eligibility date of an inmate identified as mentally ill, the board shall notify the department that the inmate is about to reach his initial parole eligibility date. After receiving notice under this subsection, a department psychiatrist shall examine the inmate. The psychiatrist shall file a sworn application for court-ordered temporary mental health services under Chapter 3, Texas Mental Health Code (Article 5547-26 et seq., Vernon's Texas Civil Statutes), if the psychiatrist determines that the inmate is mentally ill and as a result of the illness the inmate meets at least one of the criteria listed in Section 50, Texas Mental Health Code (Article 5547-50, Vernon's Texas Civil Statutes).

(c) The psychiatrist shall include with the application a sworn certificate of medical examination for mental illness in the form prescribed by Section 33, Texas Mental Health Code (Article 5547-33, Vernon's Texas Civil Statutes).

(d) The department is liable for costs incurred for a hearing under Chapter 3, Texas Mental Health Code (Article 5547-26 et seq., Vernon's Texas Civil Statutes), that follows an application filed by a department psychiatrist under this article.

SECTION 30. Title 108, Revised Statutes, is amended by adding Article 6203c-9 to read as follows:

Art. 6203c-9. SPECIAL ALTERNATIVE INCARCERATION PROGRAM.

(a) The Texas Department of Corrections shall establish a program to confine probationers who are required to serve not more than 90 days in the department as a condition of probation imposed under Section 3h, Article 42.12, Code of Criminal Procedure.

(b) Probationers participating in a program under this article are not required to undergo the complete reception and diagnostic process required of other prisoners, but the department may require the probationers to undergo those diagnostic processes determined by the department to be necessary.

(c) Probationers participating in a program under this article shall be segregated from the general population of the department.

(d) Probationers participating in a program under this article shall be required to participate in strenuous labor and the department shall conduct programs to educate the probationers as to the conditions under which inmates in the department live.

(e) The department shall promulgate rules of conduct for probationers participating in the program under this article. If the department determines that a probationer is not complying with the rules, the department may request the court that placed the probationer in the program to end the probationer's participation in the program. If on the 90th day after a probationer begins participation in the program the court has not suspended the imposition of the probationer's sentence of confinement, the department shall transfer the probationer from the program to any unit within the department.

SECTION 31. Title 108, Revised Statutes, is amended by adding Article 6203c-10 to read as follows:

Art. 6203c-10. MANDATORY REPORTING OF PHYSICIAN MISCONDUCT OR MALPRACTICE. (a) If the Texas Department of Corrections receives an allegation that a physician employed or under contract with the department has committed an action that constitutes a ground for the denial or revocation of the physician's license under Section 3.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), the department shall report the information to the Texas State Board of Medical Examiners in the manner provided by Section 4.02 of that Act.

(b) The department shall provide the Texas State Board of Medical Examiners with a copy of any report or finding relating to an investigation of an allegation reported to the board.

SECTION 32. Title 108, Revised Statutes, is amended by adding Article 6203c-11 to read as follows:

Art. 6203c-11. CONTINUITY OF CARE.

Sec. 1. (a) The Texas Department of Corrections, the Board of Pardons and Paroles, the Texas Department of Mental Health and Mental Retardation, the Texas Adult Probation Commission, and representatives of community mental health and mental retardation centers appointed by the commissioner of the Texas Department of Mental Health and Mental Retardation shall adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for mentally ill or mentally retarded inmates. An agency of the state not listed in this subsection that determines that it may provide services to mentally ill or mentally retarded inmates may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.

- (b) The memorandum of understanding must establish methods for:
  - (1) identifying mentally ill or mentally retarded inmates;
  - (2) notifying the board, the Texas Department of Mental Health and Mental Retardation, and community centers as to when a mentally ill or mentally retarded inmate is to be released and as to the inmate's release destination;
  - (3) identifying the services needed by the mentally ill or mentally retarded inmates to successfully reenter the community; and
  - (4) determining the manner in which each party that participates in the establishment of the memorandum can share information about inmates and use that information to provide continuity of care.

(c) The Texas Department of Mental Health and Mental Retardation shall coordinate development of the memorandum of understanding. The departments, the board, the commission, and the representatives of the community centers by rule shall adopt the memorandum.

Sec. 2. (a) The Texas Department of Corrections, the Board of Pardons and Paroles, the Texas Department of Human Services, and the Texas Department on Aging shall adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for elderly inmates. An agency of the state not listed in this subsection that determines that it may provide services to elderly inmates may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.

- (b) The memorandum of understanding must establish methods for:
  - (1) identifying elderly inmates;
  - (2) notifying the board and the Texas Department on Aging as to when an elderly inmate is to be released and as to the inmate's release destination;
  - (3) identifying the services needed by the elderly inmates to successfully reenter the community; and
  - (4) determining the manner in which each party that participates in the establishment of the memorandum can share information about inmates and use that information to provide continuity of care.

(c) The Texas Department on Aging shall coordinate the development of the memorandum of understanding. The departments and the board by rule shall adopt the memorandum.

Sec. 3. (a) The Texas Department of Corrections, the Board of Pardons and Paroles, the Texas Department of Mental Health and Mental Retardation, and the Texas Commission on Alcohol and Drug Abuse shall adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for inmates with a history of drug or alcohol abuse. An agency of the state not listed in this subsection that determines that it may provide services to inmates with a history of drug or alcohol abuse may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.

- (b) The memorandum of understanding must establish methods for:
  - (1) identifying inmates with a history of drug or alcohol abuse;
  - (2) notifying the board, the Texas Department of Mental Health and Mental Retardation, and the commission as to when an inmate with a history of drug or alcohol abuse is to be released and as to the inmate's release destination;
  - (3) identifying the services needed by the inmates with a history of drug or alcohol abuse to successfully reenter the community; and

(4) determining the manner in which each party that participates in the establishment of the memorandum can share information about inmates and use that information to provide continuity of care.

(c) The Texas Commission on Alcohol and Drug Abuse shall coordinate of the memorandum of understanding. The departments, the board, and the commission by rule shall adopt the memorandum.

(d) The Texas Department of Corrections shall, from funds received for such purposes, fund and operate a full service alcoholism and drug counseling program for chemically dependent inmates. The department shall provide a sufficient number of alcoholism and drug counselors to provide counseling services for not less than 80 percent of those inmates in need of alcohol or drug counseling. The department also shall provide a sufficient administrative and supervisory support staff to organize, operate, and evaluate a program that motivates those inmates with a history of alcohol or drug-related problems to pursue a socially acceptable and chemically free lifestyle. The department shall actively pursue federal grants for the purpose of helping fund the program created under this subsection.

Sec. 4. (a) The Texas Department of Corrections, the Board of Pardons and Paroles, the Texas Rehabilitation Commission, the Texas Commission for the Deaf, the Texas Department of Human Services, and the Texas Commission for the Blind shall adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for physically handicapped inmates. An agency of the state not listed in this subsection that determines that it may provide services to physically handicapped inmates may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.

(b) The memorandum of understanding must establish methods for:

(1) identifying physically handicapped inmates;

(2) notifying the board and the commissions as to when a physically handicapped inmate is to be released and as to the inmate's release destination;

(3) identifying the services needed by physically handicapped inmates to successfully reenter the community; and

(4) determining the manner in which each party that participates in the establishment of the memorandum can share information about inmates and use that information to provide continuity of care.

(c) The Texas Rehabilitation Commission shall coordinate the development of the memorandum of understanding. The departments, the board, and the commissions by rule shall adopt the memorandum.

Sec. 5. (a) The Texas Department of Corrections, the Board of Pardons and Paroles, and the Texas Employment Commission shall adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for inmates with a history of chronic unemployment. An agency of the state not listed in this subsection that determines that it may provide services to inmates with a history of chronic unemployment may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.

(b) The memorandum of understanding must establish methods for:

(1) identifying inmates with a history of chronic unemployment;

(2) notifying the board and the commission as to when an inmate with a history of chronic unemployment is to be released and as to the inmate's release destination;

(3) identifying the services needed by the inmates with a history of chronic unemployment to successfully reenter the community; and

(4) determining the manner in which each party that participates in the establishment of the memorandum can share information about inmates and use that information to provide continuity of care.

(c) The Texas Employment Commission shall coordinate the development of the memorandum of understanding. The department, the board, and the commission by rule shall adopt the memorandum.

SECTION 33. Title 108, Revised Statutes, is amended by adding Article 6203c-12 to read as follows:

Art. 6203c-12. DIRECT PURCHASE FOR INDUSTRY AND AGRICULTURAL PURPOSES. (a) The Board of Corrections shall have the power to authorize the director to establish rules allowing the department to purchase directly or purchase at public auction any livestock, agricultural commodities, agricultural or industrial equipment, supplies, and raw materials for purposes of agricultural or industrial production, breeding, consumption, or resale, when the department may deem such action is economically feasible and advantageous to the Texas Department of Corrections. The provisions of the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), shall not apply to purchases made under this article. The department shall notify the State Purchasing and General Services Commission, as soon as practical, of purchases made under this article and the purchase price.

(b) In order to carry out the provisions of this article, the industry and agricultural fund is created to be deposited in a local bank. Such fund shall be expended for the purposes expressed in this article. Unexpended balances of this fund carry forward from fiscal year to fiscal year.

SECTION 34. Title 108, Revised Statutes, is amended by adding Article 6203c-13 to read as follows:

Art. 6203c-13. PARTICIPATION BY VOLUNTEER ORGANIZATIONS. The Texas Department of Corrections shall actively encourage volunteer organizations to provide the following programs for inmates confined in the department:

- (1) literacy and education programs;
- (2) life skills programs;
- (3) job skills programs;
- (4) parent-training programs;
- (5) drug and alcohol rehabilitation programs;
- (6) support group programs;
- (7) arts and crafts programs; and
- (8) other programs determined by the department to aid inmates in the transition between confinement and society and to reduce incidence of recidivism among inmates.

SECTION 35. Title 108, Revised Statutes, is amended by adding Article 6203c-14 to read as follows:

Art. 6203c-14. VISITATION. (a) The Texas Department of Corrections shall establish as of September 1, 1989, a uniform visitation policy that allows eligible inmates in the department to receive visitors. The department shall require each warden in the department to:

- (1) apply the policy in the unit under the warden's control;
- (2) prominently display copies of the policy in locations in the unit that are accessible to inmates or visitors; and
- (3) if requested, provide visitors with copies of the policy.

(b) At the end of each biennium, each warden in the department shall report to the director of the department on the manner in which the policy has affected visitation at his or her unit during the preceding two years.

SECTION 36. Title 108, Revised Statutes, is amended by adding Article 6203c-15 to read as follows:

Art. 6203c-15. MATERIALS FOR ARTS AND CRAFTS. (a) The Texas Department of Corrections may purchase for inmates materials to be used by the inmates to produce arts and crafts.



(b) The department may allow inmates who produce arts and crafts in the department to sell those arts and crafts to the general public in a manner determined by the department.

(c) If an inmate sells arts and crafts and the materials used in the production of the arts and crafts were provided by the department, the proceeds of the sale go first to the department to pay for the cost of the materials, and the remainder of the proceeds, if any, go to the inmate. The department may not purchase more than \$30 worth of materials for any inmate unless the inmate has repaid the department in full for previous purchases of materials.

SECTION 37. Title 108, Revised Statutes, is amended by adding Article 6203c-16 to read as follows:

Art. 6203c-16. PERMANENT WORK RECORD. The Texas Department of Corrections shall establish a permanent record for each inmate in the department participating in on-the-job training programs of the department that describes the type or types of work performed by the inmate during his confinement. The record must contain evaluations of the inmate's proficiency at tasks assigned and a record of the inmate's attendance at work. On release from the department, an inmate is entitled to a copy of a record made by the department under this article.

SECTION 38. Title 108, Revised Statutes, is amended by adding Article 6203c-17 to read as follows:

Art. 6203c-17. CONTRACT FOR CARE OF MENTALLY ILL AND MENTALLY RETARDED INMATES. The Texas Department of Corrections shall contract with the Texas Department of Mental Health and Mental Retardation for provision of Texas Department of Mental Health and Mental Retardation facilities, treatment, and habilitation for mentally ill and mentally retarded inmates in the custody of the Texas Department of Corrections. The contract shall provide detailed characteristics of the mentally ill inmate population and the mentally retarded inmate population to be affected under the contract, shall provide for the respective responsibilities of the Texas Department of Mental Health and Retardation and the Texas Department of Corrections with regard to the care and supervision of the affected inmates, and shall provide that the Texas Department of Corrections remain responsible for security.

SECTION 39. Title 108, Revised Statutes, is amended by adding Article 6203c-18 to read as follows:

Art. 6203c-18. FAMILY LIAISON OFFICER. (a) The director of the Texas Department of Corrections shall designate one employee at each unit in the department to serve as family liaison officer for that unit. The duty of a family liaison officer is to facilitate the maintenance of ties between inmates and their families for the purpose of reducing recidivism. Each family liaison officer shall:

(1) provide inmates' relatives with information about the classification status, location, and health of inmates in the unit;

(2) notify inmates about emergencies involving their families and provide inmates with other necessary information relating to their families; and

(3) assist inmates' relatives and other persons during visits with inmates and aid those persons in resolving problems that may affect permitted contact with inmates.

SECTION 40. Title 108, Revised Statutes, is amended by adding Article 6203c-19 to read as follows:

Art. 6203c-19. FAMILIES OF INMATES ADVISORY COMMITTEE.

Sec. 1. ADVISORY COMMITTEE CREATION. The Role of the Family in Reducing Recidivism Advisory Committee to the Texas Department of Corrections is created.

Sec. 2. MEMBERSHIP. The advisory committee consists of a representative of the Texas Department of Corrections, a representative of the Board of Pardons and Paroles, a representative of the attorney general's office, two members appointed by the governor, two members appointed by the lieutenant governor, and two members appointed by the speaker of the Texas House of Representatives. Each appointed member must be a citizen of the state and should have a knowledge of corrections issues. The officer appointing the member shall give preference to appointees who are or have been family members of inmates.

Sec. 3. TERMS OF OFFICE. Each appointed member of the advisory committee serves at the will of the officer appointing that member.

Sec. 4. CHAIRMAN. The governor shall designate one of the members appointed by him to serve as chairman of the advisory committee.

Sec. 5. EXPENSES. (a) Members of the advisory committee are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their official duties as advisory committee members.

(b) Necessary costs for the operation of the committee shall be paid from funds appropriated to the Texas Board of Corrections.

Sec. 6. MEETINGS. (a) The advisory committee shall hold regular quarterly meetings each year on dates fixed by the committee and such special meetings as the committee determines necessary.

(b) A majority of the advisory committee constitutes a quorum.

(c) The advisory committee shall keep a public record of its decisions at the general office of the department.

Sec. 7. FUNCTION. (a) The advisory committee shall make studies of and make recommendations to the Texas Department of Corrections and to the legislature relating to:

(1) visitation policies in the department;

(2) the availability and effectiveness of rehabilitation programs in the department;

(3) the efficiency of educational and vocational programs in the department;

(4) special problems faced by inmates with children;

(5) the special needs of indigent inmates;

(6) policies and laws relating to the distribution of release money to inmates;  
and

(7) other issues of special interest to families with relatives in the department.

(b) The advisory committee may request the department to aid in the preparation of studies required by this section, and the department shall, to the best of its abilities, provide the requested aid.

SECTION 41. Title 108, Revised Statutes, is amended by adding Article 6203g-1 to read as follows:

Art. 6203g-1. AGRICULTURAL ADVISORY COMMITTEE.

Sec. 1. ADVISORY COMMITTEE CREATION. The Advisory Committee on Agriculture to the Texas Department of Corrections is created.

Sec. 2. MEMBERSHIP. The advisory committee consists of five members. One member must be a member of the Texas Board of Corrections, and if possible that member should have a knowledge of agriculture. One member must be a member of the faculty at Texas A&M University with expertise in agriculture. The other members must be citizens of the state with knowledge of agriculture. The Texas Board of Corrections shall appoint the board member, the faculty member from Texas A&M University, and two other citizen members. The Commissioner of Agriculture shall appoint the remaining citizen member.

Sec. 3. TERMS OF OFFICE. Members of the advisory committee serve at the will of the Texas Board of Corrections.

Sec. 4. CHAIRMAN. The member of the advisory committee who is also a member of the Texas Board of Corrections serves as chairman of the advisory committee.

Sec. 5. EXPENSES. (a) Members of the advisory committee are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their official duties as advisory committee members.

(b) Necessary costs for the operation of the committee shall be paid from funds appropriated to the Texas Board of Corrections.

Sec. 6. MEETINGS. (a) The advisory committee shall hold regular quarterly meetings each year on dates fixed by the committee and such special meetings as the committee determines necessary.

(b) A majority of the advisory committee constitutes a quorum.

(c) The advisory committee shall keep a public record of its decisions at the general office of the department.

Sec. 7. FUNCTION. The purpose of the advisory committee is to present to the Texas Board of Corrections periodic evaluations of agricultural programs, suggestions for new areas of agricultural operations, and reviews related to the need for mechanization and the use of inmate labor in agricultural operations. The committee shall report to the board on its activities two or more times each year.

SECTION 42. Title 108, Revised Statutes, is amended by adding Article 6203g-2 to read as follows:

Art. 6203g-2. AGRICULTURAL EFFICIENCY AND ECONOMY.

(a) The Texas Department of Corrections shall review annually the agricultural operations of the department. The review must include:

(1) a cost-effectiveness analysis of all agricultural programs;

(2) a determination as to whether the department could more economically purchase certain agricultural products rather than produce those products; and

(3) a determination as to whether certain agricultural operations performed by inmates could be mechanized, taking into account whether mechanization would adversely affect security or inmate discipline.

(b) The department shall use the information provided by the annual review in developing and improving agricultural operations.

(c) The department shall provide the Texas Board of Corrections with a copy of the annual review required by this article.

SECTION 43. Title 108, Revised Statutes, is amended by adding Article 6203h to read as follows:

Art. 6203h. URBAN PRERELEASE PROGRAM. (a) If the Texas Department of Corrections builds a new unit or leases or contracts to operate a unit that is within 100 miles of a county with a population of 100,000 or more, the department shall assign at least one-fourth of the inmates housed in the unit to an urban prerelease program. The Criminal Justice Coordinating Council at least once a year shall provide the department with a list, on the basis of the best information available to the council, of counties in this state with a population of 100,000 or more.

(b) The department may assign to the urban prerelease program any inmate who is within six months of his initial parole eligibility date, as calculated or projected under Section (b), Section 8, Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985.

(c) The department shall attempt to secure employment in the community for the inmate. The employer of an inmate shall deliver the inmate's salary to the department. The department shall apportion the salary to the following persons and entities, in amounts determined at the discretion of the department:

(1) persons to whom the inmate has been ordered by a court to pay restitution;

(2) the inmate's family and dependents;

(3) the state, as reimbursement for the cost of the inmate's confinement;

(4) the compensation to victims of crime fund, created by Section 14, Crime Victims Compensation Act (Article 8309-I, Vernon's Texas Civil Statutes); and

(5) the inmate's trust fund.

(d) An inmate participating in a program under this article shall be confined in the unit at all times except for time spent at work and traveling to and from work and community-based counseling programs.

(e) The department shall provide inmates participating in the urban prerelease program with employment counseling, drug and alcohol counseling, and family counseling.

(f) The Texas Employment Commission shall provide inmates participating in the urban prerelease program with employment counseling and shall help the department obtain work for inmates. The Board of Pardons and Paroles shall provide inmates with counseling to help inmates make the transition from participation in the urban prerelease program to supervision under parole.

(g) Before beginning an urban prerelease program under this section, the Texas Department of Corrections, the Board of Pardons and Paroles, and the Texas Employment Commission shall adopt a memorandum of understanding that establishes the respective responsibilities of those agencies in participating in the urban prerelease program. The department shall coordinate development of the memorandum of understanding. The department, the board, and the commission shall by rule adopt the memorandum.

(h) The Texas Department of Corrections, the Board of Pardons and Paroles, and the Texas Employment Commission jointly shall conduct an annual review of the urban prerelease program.

SECTION 44. Title 108, Revised Statutes, is amended by adding Article 6203i to read as follows:

Art. 6203i. LOCATION OF NEW UNITS. (a) In determining the location of a new unit, the Texas Department of Corrections, in evaluating the advantages and disadvantages of the proposed location, shall consider whether the proposed location is:

(1) close enough to a county with a population of 100,000 or more to enable the department and inmates to have access to services and other resources provided in those counties;

(2) cost-effective with respect to its proximity to other units in the department;

(3) close to an area that would facilitate release of inmates to their area of residence; and

(4) close to an area that provides adequate educational opportunities and medical care.

(b) The Criminal Justice Coordinating Council at least once a year shall provide the department with a list, on the basis of the best information available to the council, of counties in this state with a population of 100,000 or more.

SECTION 45. Title 108, Revised Statutes, is amended by adding Article 6203j to read as follows:

Art. 6203j. STUDY RELATED TO INMATES WITH SPECIAL NEEDS.

(a) The Texas Department of Corrections shall coordinate research and prepare a report identifying inmates with special needs and considering the feasibility of transferring those inmates from the department to facilities in the state other than those of the department.

(b) The following agencies shall assist the department in conducting research and preparing the report:

- (1) the Criminal Justice Coordinating Council;
- (2) the Board of Pardons and Paroles;
- (3) the Texas Adult Probation Commission;
- (4) the Texas Department of Mental Health and Mental Retardation;
- (5) the Texas Commission on Alcohol and Drug Abuse;
- (6) the Texas Department on Aging;
- (7) the Texas Rehabilitation Commission;
- (8) the Texas Commission for the Deaf;
- (9) the Texas Commission for the Blind;
- (10) the Texas Department of Human Services; and
- (11) any other agency that the director of the department determines is necessary to aid in the preparation of the report.

(c) A study conducted under this article must determine the special needs of inmates who are:

- (1) mentally ill or mentally retarded;
- (2) physically handicapped;
- (3) pregnant;
- (4) elderly; or
- (5) determined by the group conducting the study to have special needs similar to those of other inmates described by this subsection.

(d) A study conducted under this article must consider:

- (1) whether inmates described by Subsection (c) of this article should be transferred from the department to other facilities;

(2) what procedures should be used to transfer the inmates to other facilities; and

- (3) the method of funding the cost of transferring the inmates to other facilities.

(e) On or before the first day of the 71st Regular Session of the Texas Legislature, the department shall deliver a copy of a report prepared under this article to the legislature. If conclusions of the report indicate the need for changes in law, the department shall recommend those changes to the legislature in the form of a bill or bills prepared for introduction.

SECTION 46. Title 108, Revised Statutes, is amended by adding Article 6203k to read as follows:

Art. 6203k. REENTRY PROGRAM FOR LONG-TERM INMATES; COMMUNITY RESOURCES. (a) The Texas Department of Corrections shall establish a program to assist long-term inmates in preparing for their release from the department.

(b) In order to participate in the program established under this article, an inmate must:

- (1) be serving a sentence of 30 years or longer;
- (2) be within one year of the date projected for release;
- (3) volunteer for participation in the program; and
- (4) be approved for participation in the program by the department.

(c) The department shall provide to inmates participating in the program established under this article academic and vocational education, employment counseling, and individual therapy. Services provided under this subsection must be designed to address the special needs of inmates who have served long terms of confinement in the department.

(d) The department and the Board of Pardons and Paroles shall cooperate in determining the special needs of inmates who have served long terms of confinement in the department and shall identify and develop community resources to meet those needs.

SECTION 47. Section 2 (a), Chapter 324, Acts of the 67th Legislature, Regular Session, 1981, as amended (Article 4413(49), Vernon's Texas Civil Statutes), is amended to read as follows:

- (a) To this end, the policy council shall:
- (1) conduct an in-depth analysis of the criminal justice system;
  - (2) determine the long-range needs of the criminal justice system and recommend policy priorities for the criminal justice system;
  - (3) identify critical problems in the criminal justice system and recommend strategies to solve those problems;
  - (4) assess the cost-effectiveness of the use of state and local funds in the criminal justice system;
  - (5) recommend the goals, priorities, and standards for the allocation of criminal justice planning funds administered by the Criminal Justice Division;
  - (6) recommend means to improve the deterrent and rehabilitative capabilities of the criminal justice system;
  - (7) advise and assist the legislature in developing plans, programs, and proposed legislation for improving the effectiveness of the criminal justice system;
  - (8) guide the Criminal Justice Coordinating Council; [and]
  - (9) make cost per day calculations and interagency cost comparisons on services provided by agencies that are a part of the criminal justice system;
  - (10) make population calculations for use in planning for the long-range needs of the criminal justice system;
  - (11) determine long-range information needs of the criminal justice system and acquire that information; and
  - (12) engage in other activities consistent with the responsibilities of the policy council.

SECTION 48. Chapter 3, Texas Mental Health Code (Article 5547-26 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 58A to read as follows:

Sec. 58A. COMMITMENT TO DEPARTMENT OF CORRECTIONS FACILITY. If a court enters an Order for Temporary Mental Health Services for an inmate of the Texas Department of Corrections following an application filed by a psychiatrist for the Texas Department of Corrections under Article 6203c-8, Revised Statutes, the court shall commit the inmate patient to a Texas Department of Corrections in-patient mental health facility.

SECTION 49. Chapter 4, Texas Mental Health Code (Article 5547-73 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 75A to read as follows:

Sec. 75A. TRANSFER OF RELEASEES FROM DEPARTMENT OF CORRECTIONS. If an inmate of the Texas Department of Corrections is a patient in a Texas Department of Corrections in-patient mental health facility as the result of a commitment under Section 58A of this code and is released on parole or mandatory supervision from the custody of the department, on the date the releasee is released from custody the department shall transfer the releasee to a noncorrectional in-patient mental health facility. If the releasee is transferred to a facility under the control and management of the Texas Department of Mental Health and Mental Retardation, the transfer shall be to the facility of the department that serves the location to which the releasee is released and shall be made according to the provisions of Section 75 of this code. After a releasee is transferred under this section, the responsibility for the treatment of the releasee is solely with the receiving facility.

SECTION 50. Article 2, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.13A to read as follows:

Sec. 2.13A. CONTRACTS FOR INMATE AND PAROLEE CARE.

(a) Subject to the requirements of Subsection (b) of this section, the department may contract with:

(1) the Texas Department of Corrections, to transfer facilities to the department of corrections or otherwise provide the department of corrections with facilities for mentally ill and mentally retarded inmates in the custody of the department; and

(2) the Board of Pardons and Paroles, to transfer facilities to the Board of Pardons and Paroles or otherwise provide the Board of Pardons and Paroles with facilities for mentally ill and mentally retarded parolees and releasees under the supervision of the board.

(b) Before entering into a contract under this section, each agency that proposes to enter into the contract shall report to the governor its reasons for entering into the contract and request the governor's approval. An agency may not enter into a contract under this section unless the agency receives the written approval of the governor.

SECTION 51. Section 322, Probate Code, is amended to read as follows:

Sec. 322. CLASSIFICATION OF CLAIMS AGAINST ESTATES OF DECEDENT. Claims against an estate of a decedent shall be classed and have priority of payment, as follows:

Class 1. Funeral expenses and expenses of last sickness for a reasonable amount to be approved by the court, not to exceed Five Thousand Dollars, any excess to be classified and paid as other unsecured claims.

Class 2. Expenses of administration and expenses incurred in the preservation, safe-keeping, and management of the estate.

Class 3. Claims secured by mortgage or other liens, including tax liens, so far as the same can be paid out of the proceeds of the property subject to such mortgage or other lien, and when more than one mortgage or lien shall exist upon the same property, the oldest shall be first paid; but no preference shall be given to such mortgage or lien.

Class 4. Claims for taxes, penalties, and interest due under Title 2, Tax Code; Chapter 8, Title 132, Revised Civil Statutes of Texas, 1925, as amended; Section 81.111, Natural Resources Code; the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes); Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes); or Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

Class 5. Claims for the cost of confinement established by the Texas Department of Corrections under Article 6184s, Revised Statutes.

Class 6. All other claims legally exhibited within six months after the original grant of letters testamentary or of administration.

Class 7. ~~[Class 6.]~~ All claims legally exhibited after the lapse of six months from the original grant of letters testamentary or of administration.

SECTION 52. Section 1, Article 26.055, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. A county in which a facility of the Texas Department of Corrections, or a correctional facility authorized by Article 6166g-2, Revised Statutes, is located shall pay from its general fund only the first \$250 of the aggregate sum allowed and awarded by the court for attorneys' fees under Article 26.05 toward defending a prisoner committed to that facility who is being prosecuted for an offense committed in that county while in the custody of the department if the prisoner was originally committed for an offense committed in another county.

SECTION 53 . Section 8, Article 42.09, Code of Criminal Procedure, is amended to read as follows:

Sec. 8. (a) A county that transfers a defendant to the Department of Corrections under this Article shall deliver to the director of the department:

(1) a copy of the judgment entered pursuant to Article 42.01 of this code completed on a standardized felony judgment form described by Section 4 of that Article[~~as amended~~];

(2) a copy of any order revoking probation and imposing sentence pursuant to Section 8 of Article 42.12 of this code, [~~as amended~~] including any amounts owed for restitution, fines, and court costs completed on a standardized felony judgment form described by Section 4 of Article 42.01 of this code; [~~and~~]

(3) a written report that states the nature and the seriousness of each offense and that states the citation to the provision or provisions of the Penal Code or other law under which the defendant was convicted;

(4) a copy of the victim impact statement, if one has been prepared in the case under Article 56.03 of this code;

(5) a statement as to whether there was a change in venue in the case and, if so, the names of the county prosecuting the offense and the county in which the case was tried; and

(6) a copy of the record of arrest for each offense;

(7) information regarding the criminal history of the defendant;

(8) a copy of the indictment or information for each offense; and

(9) a checklist sent by the department to the county and completed by the county in a manner indicating that the documents required by this subsection and Subsection (c) of this section accompany the defendant.

(b) The Department of Corrections shall not take a defendant into custody under this Article until the director receives the documents required by Subsections [Subsection] (a) and (c) of this section.

(c) A county that transfers a defendant to the Department of Corrections under this Article shall also deliver to the director of the department any presentence investigation report, probation revocation report, [~~or~~] psychological or psychiatric evaluation of the defendant, and available social or psychological background information relating to the defendant, and may deliver to the director any additional information upon which the judge or jury bases the punishment decision.

(d) The Department of Corrections shall make documents received under Subsections (a) and (c) of this section available to the Board of Pardons and Paroles on the request of the board or its representative.

(e) A county is not required to deliver separate documents containing information relating to citations to provisions of the Penal Code or other law and to changes of venue, as otherwise required by Subsections (a)(3) and (a)(5) of this Article, if the standardized felony judgment form described by Section 4 of Article 42.01 of this code is modified to require that information.

(f) Except as provided by Subsection (g) of this section, the county sheriff is responsible for ensuring that documents and information required by this section accompany defendants sentenced by district courts in the county to terms of confinement in the Texas Department of Corrections.

(g) If the presiding judge of the administrative judicial region in which the county is located determines that the county sheriff is unable to perform the duties required by Subsection (f) of this section, the presiding judge may impose those duties on:

(1) the district clerk; or

(2) the prosecutor of each district court in the county.



SECTION 54. Article 42.12, Code of Criminal Procedure, as amended, is amended by adding Section 3h to read as follows:

Sec. 3h. (a) For the purposes of this section, the jurisdiction of a court in which a sentence requiring confinement in the Texas Department of Corrections is imposed for conviction of a felony shall continue for 90 days from the date the execution of the sentence actually begins. After the expiration of 75 days but prior to the expiration of 90 days from the date the execution of the sentence actually begins, the judge of the court that imposed the sentence may suspend further execution of the sentence imposed and place the defendant on probation under the terms and conditions of this article, if in the opinion of the judge the defendant would not benefit from further incarceration in a penitentiary. The court shall clearly indicate in its order placing the defendant on probation under this section that the court is not retaining jurisdiction over the defendant for the purposes of Section 3e of this article. Probation may be granted under this section only if:

- (1) the defendant is otherwise eligible for probation under this article;
- (2) the defendant is a male 17 years of age or older but younger than 26 years and does not have a physical or mental handicap that precludes strenuous physical activity; and
- (3) the defendant had never before been incarcerated in a penitentiary serving a sentence for a felony.

(b) On the date the execution of a sentence begins for a defendant placed on probation under this section, the probationer shall begin participation in a program in the Texas Department of Corrections under Article 6203c-9, Revised Statutes.

(c) If a court requests of the Texas Department of Corrections the record of a defendant placed on probation under this section, the department shall promptly send the record to the court.

SECTION 55. Title 108, Revised Statutes, is amended by adding Article 6166g-3 to read as follows:

Art. 6166g-3. SPECIAL PURCHASING PROCEDURES. The Texas Department of Corrections shall comply with any special purchasing procedures requiring competitive review under the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

SECTION 56. Section 16.001 (a), Civil Practice and Remedies Code, is amended to read as follows:

(a) For the purposes of this subchapter, a person is under a legal disability if the person is:

- (1) younger than 18 years of age, regardless of whether the person is married; or
- (2) ~~[imprisoned; or~~
- ~~[(3)]~~ of unsound mind.

SECTION 57. Section 16.022(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) For the purposes of this subchapter, a person is under a legal disability if the person is:

- (1) younger than 18 years of age, regardless of whether the person is married;
- (2) ~~[imprisoned;~~
- ~~[(3)]~~ of unsound mind; or
- ~~[(4)]~~ serving in the United States Armed Forces during time of war.

SECTION 58. Chapter 30, Civil Practice and Remedies Code, is amended by adding Section 30.004 to read as follows:

Sec. 30.004. EXHAUSTION OF ADMINISTRATIVE REMEDIES FOR INMATES. If an inmate of the Texas Department of Corrections brings a case in

state court alleging a violation of the inmate's civil rights by the department, the court may continue the case for a period of not more than 90 days if the court determines that the continuance may provide the inmate with a speedy administrative remedy under the grievance procedure.

SECTION 59. Section 104.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 104.003. LIMITS ON AMOUNT OF RECOVERABLE DAMAGES. (a) Except as provided by Subsection (c), state [State] liability under this chapter may not exceed:

(1) \$100,000 to a single person and \$300,000 for a single occurrence in the case of personal injury, death, or deprivation of a right, privilege, or immunity; and

(2) \$10,000 for a single occurrence of damage to property.

(b) The state is not liable under this chapter to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance authorized by statute.

(c) The limits on state liability provided by Subsection (a) do not apply if the person for whose acts the state is liable under this chapter is a member of the Texas Board of Corrections.

SECTION 60. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 132 to read as follows:

#### **CHAPTER 132. UNSWORN DECLARATIONS**

Sec. 132.001. USE BY INMATES IN LIEU OF SWORN DECLARATION.

(a) Except as provided by Subsection (b), an unsworn declaration made as provided by this chapter by an inmate in the Texas Department of Corrections or in a county jail may be used in lieu of a written sworn declaration, verification, certification, oath, or affidavit required by statute or required by a rule, order, or requirement adopted as provided by law.

(b) This chapter does not apply to an oath of office or an oath required to be taken before a specified official other than a notary public.

Sec. 132.002. REQUIREMENTS OF DECLARATION. An unsworn declaration made under this chapter must be:

(1) in writing; and

(2) subscribed by the person making the declaration as true under penalty of perjury.

Sec. 132.003. FORM OF DECLARATION. The form of a declaration under this chapter must be substantially as follows:

"I, (insert name and inmate identifying number from Texas Department of Corrections or county jail), being presently incarcerated in (insert Texas Department of Corrections unit name or county jail name) in \_\_\_\_\_ County, Texas, declare under penalty of perjury that the foregoing is true and correct. Executed on (date). (signature)"

SECTION 61. Out of the funds appropriated to the Texas Department of Corrections in Senate Bill 1, 69th Legislature, 3rd Called Session, 1985, the department is authorized, effective immediately, to transfer any unexpended balances in any program item to enter into contracts with private vendors under Article 6166g-2, Revised Statutes.

SECTION 62. (a) If agencies are required by this Act to adopt a memorandum of understanding, the agencies must adopt the memorandum by December 31, 1987.

(b) This section does not apply to the memorandum of understanding required by Article 6203h(g), Revised Statutes, as added by Section 43 of this Act.

SECTION 63. (a) Article 6203h, Revised Statutes, as added by Section 43 of this Act, applies only to a unit that the Texas Department of Corrections begins to construct on or after the effective date of this Act.

(b) Section 8, Article 42.09, Code of Criminal Procedure, as amended by Section 53 of this Act, applies only to an inmate transferred to the Texas Department of Corrections on or after October 1, 1987.

SECTION 64. (a) The change in law made by Section 14 of this Act to Section 3(a), Article 6181-1, Revised Statutes, applies to the maximum amount of good conduct time an inmate may earn only if the defendant is sentenced for an offense committed on or after the effective date of this Act.

(b) If a sentence is for an offense committed before the effective date of this Act, the maximum amount of good conduct time an inmate may earn is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

(c) For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 65. (a) A period of limitations that on August 31, 1987, was tolled under Section 16.001 or 16.022, Civil Practice and Remedies Code, because the person entitled to bring the action was imprisoned, begins to run on the effective date of this Act.

(b) A period before the effective date of this Act during which a person was under a legal disability because of imprisonment is not affected by this Act.

SECTION 66. This Act takes effect September 1, 1987.

SECTION 67. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### AT EASE

The President at 4:48 p.m. announced the Senate would stand At Ease Subject to the Call of the Chair.

#### IN LEGISLATIVE SESSION

Senator Blake at 5:05 p.m. called the Senate to order as In Legislative Session.

#### MESSAGE FROM THE HOUSE

House Chamber  
May 31, 1987

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**H.B. 1933**, With Senate amendments is returned to the Senate. The point of order was sustained that the Senate amendments violate Rule 12 Sec. 2 of the House Rules, 70th Legislature. **H.B. 1933** is returned to the Senate for further consideration.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**AT EASE**

The Presiding Officer (Senator Blake in Chair) announced at 5:06 p.m. that the Senate would stand At Ease Subject to the Call of the Chair.

**IN LEGISLATIVE SESSION**

The Presiding Officer (Senator Uribe in Chair) at 5:22 p.m. called the Senate to order as In Legislative Session.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 31, 1987

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House refused to concur in Senate amendments to **H.B. 2622** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Eckels, Chairman; Connelly, Polumbo, Hilbert and Grusendorf.

The House refused to concur in Senate amendments to **H.B. 2571** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Schlueter, Chairman; Shaw, Carriker, A. Hill and Willy.

The House refused to concur in Senate amendments to **H.B. 2328** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: C. Harris, Chairman; Toomey, Seidlits, Shine and Dutton.

The House refused to concur in Senate amendments to **H.B. 2297** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Seidlits, Chairman; Blair, Carriker, Clemons and Edwards.

The House refused to concur in Senate amendments to **H.B. 2235** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Hinojosa, Chairman; Cavazos, Carriker, H. Cuellar and Price.

The House refused to concur in Senate amendments to **H.B. 2219** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: R. Smith, Whaley, S. Johnson, Shine and Kubiak.

The House refused to concur in Senate amendments to **H.B. 2108** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Riley, Chairman; Hammond, Schoolcraft, Carter and Agnich.

**H.B. 2146**, With Senate amendments is returned to the Senate. The point of order was sustained that the Senate amendments violate Rule 12, Sec. 2 of the House Rules, 70th Legislature. **H.B. 2146** is returned to the Senate for further consideration.

Respectfully,  
BETTY MURRAY, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT  
COMMITTEE SUBSTITUTE HOUSE BILL 1869**

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas  
May 31, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on C.S.H.B. 1869 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROOKS  
JOHNSON  
GREEN  
ANDERSON

VALIGURA  
J. HARRIS  
COLBERT  
HAMMOND  
McKINNEY  
On the part of the House

On the part of the Senate

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**AT EASE**

The Presiding Officer (Senator Uribe in Chair) announced at 5:24 p.m. the Senate would Stand At East Subject to the Call of the Chair.

**IN LEGISLATIVE SESSION**

The President at 5:43 p.m. called the Senate to order as In Legislative Session.

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.B. 4	H.B. 614	H.B. 1069	H.B. 2125
H.B. 128	H.B. 620	H.B. 1077	H.B. 2174
H.B. 177	H.B. 651	H.B. 1134	H.B. 2213
H.B. 349	H.B. 665	H.B. 1141	H.B. 2224
H.B. 365	H.B. 667	H.B. 1213	H.B. 2269
H.B. 391	H.B. 696	H.B. 1227	H.B. 2281
H.B. 410	H.B. 705	H.B. 1431	H.B. 2299
H.B. 474	H.B. 717	H.B. 1616	H.B. 2347
H.B. 497	H.B. 742	H.B. 1699	H.B. 2448
H.B. 500	H.B. 814	H.B. 1837	H.B. 2554
H.B. 503	H.B. 817	H.B. 1896	H.B. 2574
H.B. 517	H.B. 906	H.B. 1904	H.B. 2588
H.B. 527	H.B. 957	H.B. 1919	H.B. 2599
H.B. 528	H.B. 999	H.B. 1927	H.C.R. 110
H.B. 554	H.B. 1032	H.B. 1938	H.C.R. 189
H.B. 559	H.B. 1043	H.B. 1961	H.J.R. 60
H.B. 592			

## MESSAGE FROM THE HOUSE

House Chamber  
May 31, 1987

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to the following House Bills by a non-record vote:

<b>H.B. 2083</b>	<b>H.B. 273</b>
<b>H.B. 2107</b>	<b>H.B. 384</b>
<b>H.B. 2158</b>	<b>H.B. 390</b>
<b>H.B. 2449</b>	<b>H.B. 530</b>
<b>H.B. 2320</b>	<b>H.B. 494</b>
<b>H.B. 65</b>	

The House has adopted the Conference Committee Report on **S.B. 651** by a non-record vote.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 408**: A. Moreno, Chairman; Martinez, Connelly, Wallace and Edge.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1517**: R. Smith, Chairman; Smithee, C. Johnson, Oakley and Saunders.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 380**: Earley, Chairman; Craddick, McDonald, Burnett and Stiles.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 696**: Haley, Chairman; Glossbrenner, Colbert, Perez and A. Moreno.

The House has granted the request of the Senate for the appointment of a new Conference Committee on **H.B. 791**: Eckels, Chairman; Hunter, Leonard, Shelley and A. Jones.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 893**: Perez, Chairman; Toomey, Dutton, Uher and Grusendorf.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1371**: C. Evans, McKinney, Danburg, Glossbrenner and Pierce.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1407**: Hightower, Aikin, Richardson, Telford and A. Moreno.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1429**: Campbell, Chairman; Shea, Marchant, R. Lewis and Aikin.

The House has concurred in Senate amendments to the following House Bills by a non-record vote:

H.B. 752	H.B. 1523
H.B. 888	H.B. 1622
H.B. 1084	H.B. 1818
H.B. 1085	H.B. 1826
H.B. 1191	H.B. 1827
H.B. 1237	H.B. 1831
H.B. 1511	

The House has concurred in Senate amendments to **H.B. 1906** by a non-record vote.

The House has concurred in Senate amendments to **H.C.R. 165** by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT  
HOUSE BILL 176**

Senator Lyon submitted the following Conference Committee Report:

Austin, Texas  
May 31, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 176** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

LYON  
EDWARDS  
SARPALIUS  
GLASGOW

On the part of the Senate

D. HUDSON  
HOLLOWELL  
ROBERTS  
DELCO  
OAKLEY

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 893**

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas  
May 31, 1987

Honorable William P. Hobby  
President of the Senate

Honorable Gibson D. "Gib" Lewis  
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 893 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CAPERTON  
ANDERSON  
BROWN  
KRIER

On the part of the Senate

PEREZ  
TOOMEY  
UHER  
DUTTON  
GRUSENDORF  
On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the agreement of spouses regarding certain rights in certain property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 5, Family Code, as amended, is amended to read as follows:

**SUBCHAPTER C. PROPERTY AGREEMENTS**

**PART 1. UNIFORM PREMARITAL AGREEMENT ACT**

Sec. 5.41. DEFINITIONS. In this part:

(1) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective on marriage.

(2) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

Sec. 5.42. FORMALITIES. A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration.

Sec. 5.43. CONTENT. (a) Parties to a premarital agreement may contract with respect to:

(1) the rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(2) the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;

(3) the disposition of property on separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;

(4) the modification or elimination of spousal support;

(5) the making of a will, trust, or other arrangement to carry out the provisions of the agreement;

(6) the ownership rights in and disposition of the death benefit from a life insurance policy;

(7) the choice of law governing the construction of the agreement;  
and

(8) any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(b) The right of a child to support may not be adversely affected by a premarital agreement.

Sec. 5.44. EFFECT OF MARRIAGE. A premarital agreement becomes effective on marriage.

Sec. 5.45. AMENDMENT; REVOCATION. After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the



parties. The amended agreement or the revocation is enforceable without consideration.

Sec. 5.46. ENFORCEMENT. (a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

- (1) that party did not execute the agreement voluntarily; or
- (2) the agreement was unconscionable when it was executed and before execution of the agreement, that party:

(A) was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;

(B) did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(C) did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

Sec. 5.47. ENFORCEMENT; VOID MARRIAGE. If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

Sec. 5.48. LIMITATION OF ACTIONS. Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

Sec. 5.49. APPLICATION AND CONSTRUCTION. Sections 5.41 through 5.50 of this subchapter shall be applied and construed to effect their general purpose to make uniform the law with respect to the subject of these sections among states enacting them.

Sec. 5.50. SHORT TITLE. This part may be cited as the Uniform Premarital Agreement Act.

## **PART 2. OTHER PROPERTY AGREEMENTS**

Sec. 5.51. PROPERTY DEFINED. In this part "property" has the meaning assigned by Section 5.41 of this code.

Sec. 5.52. PARTITION OR EXCHANGE OF COMMUNITY PROPERTY. At any time, the spouses may partition or exchange between themselves any part of their community property, then existing or to be acquired, as they may desire. Property or a property interest transferred to a spouse by a partition or exchange agreement becomes his or her separate property.

Sec. 5.53. AGREEMENTS BETWEEN SPOUSES CONCERNING INCOME OR PROPERTY DERIVED FROM SEPARATE PROPERTY. At any time, the spouses may agree that the income or property arising from the separate property then owned by one of them, or which may thereafter be acquired, shall be the separate property of the owner.

Sec. 5.54. FORMALITIES. A partition or exchange agreement must be in writing and signed by both parties.

Sec. 5.55. ENFORCEMENT. (a) A partition or exchange agreement is not enforceable if the party against whom enforcement is sought proves that:

- (1) that party did not execute the agreement voluntarily; or
- (2) the agreement was unconscionable when it was executed and, before execution of the agreement, that party:

(A) was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;

(B) did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(C) ~~did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.~~

(b) ~~An issue of unconscionability of a partition or exchange agreement shall be decided by the court as a matter of law.~~

~~Sec. 5.56. PARTITION OR EXCHANGE AGREEMENTS: RIGHTS OF CREDITORS, RECORDATION. (a) A provision of a partition or exchange agreement made under this subchapter is void with respect to the rights of a preexisting creditor whose rights are intended to be defrauded by it.~~

~~(b) A partition or exchange agreement made under this subchapter may be recorded in the deed records of the county in which a party resides and in the county in which the real property affected is located. An agreement, partition, or exchange agreement made under this subchapter is constructive notice to a good faith purchaser for value or a creditor without actual notice only if the instrument is acknowledged and recorded in the county in which the real property is located.~~

~~[Sec. 5.41. AGREEMENT IN CONTEMPLATION OF MARRIAGE. (a) Before marriage, persons intending to marry may enter into a marital property agreement concerning their property then existing or to be acquired, as they may desire:~~

~~[(b) A minor capable of marrying but not otherwise capable of entering into a binding agreement may enter into a marital property agreement with the subscribed, written consent of the guardian of the minor's estate and with the approval of the probate court after the application, notice, and hearing required in the Probate Code for the sale of a minor's real estate; and if there be no guardian of the minor's estate, with the subscribed, written consent of the minor's managing conservator.~~

~~[Sec. 5.42. PARTITION OR EXCHANGE OF COMMUNITY PROPERTY. At any time, the spouses may partition or exchange between themselves any part of their community property, then existing or to be acquired, as they may desire. Property or a property interest transferred to a spouse by a partition or exchange agreement becomes his or her separate property.~~

~~[Sec. 5.43. AGREEMENTS BETWEEN SPOUSES CONCERNING INCOME OR PROPERTY DERIVED FROM SEPARATE PROPERTY. At any time, the spouses may agree that the income or property arising from the separate property then owned by one of them, or which may thereafter be acquired, shall be the separate property of the owner.~~

~~[Sec. 5.44. FORMALITIES OF AGREEMENTS. Each agreement, partition, or exchange agreement made under this subchapter must be in writing and subscribed by all parties.~~

~~[Sec. 5.45. MARITAL AGREEMENTS: BURDEN OF PROOF. In any proceeding in which the validity of a provision of an agreement, partition, or exchange agreement made under this subchapter is in issue as against a spouse or a person claiming from a spouse, the burden of showing the validity of the provision is on the party who asserts it. The proponent of the agreement, partition, or exchange agreement or any person claiming under the proponent has the burden to prove by clear and convincing evidence that the party against whom enforcement of the agreement is sought gave informed consent and that the agreement was not procured by fraud, duress, or overreaching.~~

~~[Sec. 5.46. MARITAL AGREEMENTS: RIGHTS OF CREDITORS, RECORDATION. (a) A provision of an agreement, partition, or exchange agreement made under this subchapter is void with respect to rights of a preexisting creditor whose rights are intended to be defrauded by it.~~

~~(b) An agreement, partition, or exchange agreement made under this subchapter may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property~~

affected or to be affected is located. As to real property, an agreement, partition, or exchange agreement made under this subchapter is not constructive notice to a good faith purchaser for value or a creditor without actual notice unless the instrument is acknowledged and recorded in the county in which the real property is located.]

SECTION 2. Section 46, Texas Probate Code, as amended, is amended to read as follows:

Sec. 46. JOINT TENANCIES ~~[ABOLISHED]~~. (a) ~~If [Where]~~ two ~~[(2)]~~ or more persons hold an interest in property ~~[estate, real, personal, or mixed;]~~ jointly, and one ~~[(+)]~~ joint owner dies before severance, the [his] interest of the decedent in the [said] joint estate shall not survive to the remaining joint owner or [joint] owners[;] but shall pass by will or intestacy from the decedent ~~[descend to, and be vested in, the heirs or legal representatives of such deceased joint owner in the same manner]~~ as if the decedent's [his] interest had been severed ~~[and ascertained]~~. By [Provided, however, that by] an agreement in writing of the joint owners, however, [of property] the interest of any joint owner who dies may be made to survive to the surviving joint owner or [joint] owners, but no such agreement shall be inferred from the mere fact that the property is held in joint ownership.

(b) Spouses may agree in writing that all or part of their community property which is titled or held with indicia of title becomes the property of the surviving spouse on the death of a spouse. ~~[A written agreement between spouses and a bank, savings and loan, credit union, or other financial institution may provide that existing funds or securities on deposit and funds and securities to be deposited in the future and interest and income thereon shall by that agreement be partitioned into separate property and may further provide that the property partitioned by that agreement be held in joint tenancies and pass by right of survivorship.]~~

SECTION 3. (a) This Act takes effect September 1, 1987, except as otherwise provided.

(b) Section 2 of this Act takes effect when the constitutional amendment proposed by the 70th Legislature, Regular Session, permitting spouses to make an agreement concerning the right of survivorship of certain community property is adopted. If that amendment is not adopted, Section 2 of this Act has no effect.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### CONGRATULATORY RESOLUTION

S.R. 695 - By Tejada: Commending Mary Hilary Christopher.

#### ADJOURNMENT

The President at 5:59 p.m. announced that business having been accomplished, the Senate would adjourn until 9:30 a.m. tomorrow in accordance with a motion previously adopted by the Senate.

Filed with Secretary of State  
(May 30, 1987)

H.J.R. 2

H.J.R. 35